

**CITY OF CLAYTON BOARD OF ALDERMEN
TUESDAY, MARCH 14, 2017 - 6:15 P.M.
CLAYTON CITY HALL - COUNCIL CHAMBERS
10 N. BEMISTON AVENUE**

1. Presentation of Median and Bike Facility Options (Brentwood Resurfacing Project).
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**CITY OF CLAYTON BOARD OF ALDERMEN AGENDA
TUESDAY, MARCH 14, 2017 – 7:00 P.M.
CLAYTON CITY HALL - COUNCIL CHAMBERS
10 N. BEMISTON AVENUE**

ROLL CALL

MINUTES – February 14, 2016

PUBLIC REQUESTS & PETITIONS

PUBLIC HEARING

NOTE: At the request of the applicant the Planned Unit Development and Rezoning Public Hearing has been postponed to the next meeting on Tuesday, March 28, 2017.

1. Ordinance – To consider approving rezoning of the property located at 7601 and 7651 Clayton Road from an R-6 Medium Density Multiple Family Dwelling District and the Westwood Corridor Urban Design District to C-1 Neighborhood Commercial Zoning District.
2. Ordinance – To approve rezoning of the property located at 7601 and 7651 Clayton Road from C-1 Neighborhood Commercial Zoning District to a Planned Unit Development (PUD) District.

REPORT FROM THE CITY MANAGER

1. Ordinance – To approve a preliminary funding agreement with Flaherty & Collins Development, LLC. (Bill No. 6604)
 - To consider approving a funding agreement for the proposed development located at 8049 Forsyth Boulevard.
2. Ordinance – To approve a lease agreement with the St. Louis County Port Authority. (Bill No. 6605)
 - To consider a lease agreement for the public parking lot on land bound by Carondelet Avenue on the south, Central Avenue on the west, Bemiston Avenue on the east, and the mid-block east west alley between Central Avenue and Bemiston Avenue on the north.
3. Resolution – To support Earth Hour 2017. (Res. No. 17-02)
 - The World Wildlife Fund is asking individuals, businesses, governments and organizations around the world to turn off their lights for one hour on Saturday, March 25, 2017, at 8:30 p.m. local time – **Earth Hour** – to make a global statement of concern about climate change and to demonstrate commitment to finding solutions.
4. FY2017 1st Quarter Financial Report.

ADJOURNMENT

Subject to a motion duly made in open session and a roll call vote pursuant to Section 610.022 the Board of Aldermen may also hold a closed meeting, with a closed vote and record for one or more of the reasons as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., proprietary information pursuant to Section 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO.

Agenda topics may be added or deleted at any time prior to the Board of Aldermen meeting without further notice. To inquire about the status of agenda topics, call 290.8469. Individuals who require an accommodation (i.e., sign language, interpreter, listening devices, etc.) to participate in the meeting should contact the City Clerk at 290.8469 or Relay Missouri at 1.800.735.2966 (TDD) at least two working days prior to the meeting.



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

DISCUSSION SESSION

TO: MAYOR SANGER; BOARD OF ALDERMEN
From: CRAIG S. OWENS, CITY MANAGER
DALE L. HOUDSHELL, P.E., DIRECTOR OF PUBLIC WORKS
MATT MALICK, P.E., PRINCIPAL CIVIL ENGINEER
DATE: MARCH 14, 2017
RE: BRENTWOOD BOULEVARD RESURFACING PROJECT -
PRESENTATION OF MEDIAN AND BIKE FACILITY OPTIONS

At the Board of Alderman Work Session on December 16, 2016, staff presented the concept plan for the federally funded Brentwood Boulevard Resurfacing Project and public feedback received at the project open house (12/7/16). At that work session it was requested that staff evaluate options for bicycle facilities along Brentwood, their potential impacts, and related costs. Additionally, there was feedback received related to the medians shown on the plan, particularly north of Forest Park Parkway.

The City's design engineer, HR Green, will be present to present options for bike facilities along Brentwood Boulevard and modifications to the proposed median to address public comments.

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
February 14, 2017
7:00 p.m.

Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Mark Winings, Joanne Boulton, Alex Berger, Rich Lintz, and Ira Berkowitz.

Mayor Sanger
City Manager Owens
City Attorney O'Keefe

Absent: Cynthia Garnholz

Alderman Boulton moved to approve the January 24, 2017. Alderman Winings seconded.

The motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

City Clerk June Frazier provided a report on the facts & findings on the initiative petition. (report is as follows):

Introduction

Section 5 of Article XII of the Clayton City Charter provides that within 10 days after receipt of a petition for initiative the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of electors. The Charter also specifies that the city clerk is to determine if a petition is insufficient and, if so, to set forth the particulars in which it is defective. The city clerk is to certify the results to the Board of Aldermen at its next regular meeting. This communication is forwarded to you in compliance with these provisions of the Charter.

I wish to report that on January 31, 2017, I received documents purporting to constitute petitions for an initiated ordinance and submit this report for your meeting of February 14, 2017, which is the first regular meeting of the Board of Aldermen since my receipt of the documents.

Executive Summary.

The petition materials submitted to me contain an adequate number of signatures of electors of the City for submission of an initiative ordinance. But the materials do not contain a sufficient number of signatures of registered qualified electors of the City for submission of a charter amendment.

The petition is insufficient to constitute a valid initiative petition in at least the following respects:

- It is, in fact, a referendum effort and violates the form, timing and subject requirements for referendum under the Clayton Charter.

- The petition also endeavors to amend the Clayton Charter but violates the form and signature requirements for charter amendments.
- The petition does not comply with Article XII, Section 1 of the Clayton Charter governing initiative in that the measure it proposes conflicts with the Charter.
- The petition does not comply with Article XII, Section 1 of the Clayton Charter governing initiative in that the measure it proposes is not exclusively legislative in character.
- The petition does not comply with Article XII, Section 1 of the Clayton Charter governing initiative in that the measure it proposes violates the procedural requirements for such ordinances under the Clayton Charter and Missouri statutes.
- The petition does not comply with Article XII, Section 1 of the Clayton Charter governing initiative in that the measure proposes a voter approval requirement that is unconstitutional.

It is my conclusion that the petition is insufficient to require submission of the measure to the voters of the City of Clayton.

Analysis

Article XII, Section 1 of the City Charter contains the provisions governing the initiative process for adoption of an ordinance by the electors of the City. The first sentence of the cited Section establishes and defines the limits of the initiative power as follows:

"The electors shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power to be known as the initiative. Any initiated ordinance may be submitted to the board of aldermen by a petition signed by electors of the city equal in number to at least ten percent of the total number of votes cast for the office of mayor in the last election for mayor."

The initiative petition now presented to the Clayton Board of Aldermen is defective and proposes the enactment of an ordinance that, on its face, violates the U.S. and Missouri Constitution, Missouri Statutes and the Clayton City Charter. For these reasons, applicable law does not allow the Board of Aldermen to enact the measure proposed by this petition. The electors of the city also lack the authority to enact the measure at an election.

The petition is insufficient in at least the following respects.

1. The petition is, in the express language of the sponsors and in actual fact, a referendum disguised and misrepresented as an initiative.
 - *"Our political action committee was founded by four people: two residents of Clayton who do not live anywhere near the Centene project, one who lives in Olivette and one in West County. We are not NIMBYs. We are concerned citizens who want Clayton residents to have the right to vote on this project."*

Letter to the Editor by Fred Berger, *St. Louis Post-Dispatch*, February 8, 2017.

- *"The electors shall have power to approve or reject at the polls any ordinance passed by the board of aldermen, or submitted by the board to a vote of the*

electors, **except the following: ordinances passed on the day of their introduction** as provided in the second paragraph of Section 8 of Article II of this charter, ordinances levying taxes, and ordinances for the issuance of special tax bills. Such power shall be known as the referendum. **Within fifteen days after the date on which the board of aldermen has adopted an ordinance which is subject to referendum**, a petition signed by electors of the city equal in number to at least ten percent of the total number of votes cast for the office of mayor in the last election for mayor may be filed with the city clerk, requesting that such ordinance be either repealed or submitted to a vote of the electors.”

Article XII, Section 2, Clayton City Charter

... every referendum petition shall contain the full title of the ordinance referred .
..”

Article XII, Section 4, Clayton City Charter

The petition now before the Board calls for submission to the voters of prior zoning enactments of the Board of Aldermen and requires voter approval in order for those ordinances to continue in force. Such a process is in every respect indistinguishable from the referendum process described in the Charter.

The petition is defective in that (a) it was not filed within the time required by the Charter; and (b) it does not contain the titles of any of the prior ordinances to be acted upon by the voters and, (c) it would subject prior ordinances passed on the day of their introduction to voter approval when such enactments are barred from referral by the Clayton Charter.

2. The proposed measure constitutes a *de facto* effort to amend the Clayton Charter without complying with the procedures required for charter amendments under both the Missouri Constitution and the Clayton Charter.
 - “The electors shall have power to approve or reject at the polls any ordinance passed by the board of aldermen, or submitted by the board to a vote of the electors, **except the following: ordinances passed on the day of their introduction** as provided in the second paragraph of Section 8 of Article II of this charter, ordinances levying taxes, and ordinances for the issuance of special tax bills. Such power shall be known as the referendum. **Within fifteen days after the date on which the board of aldermen has adopted an ordinance which is subject to referendum**, a petition signed by electors of the city equal in number to at least ten percent of the total number of votes cast for the office of mayor in the last election for mayor may be filed with the city clerk, requesting that such ordinance be either repealed or submitted to a vote of the electors.”

Article XII, Section 2, Clayton City Charter

“If a **majority of the electors voting** on a referred ordinance shall vote against the ordinance, it shall thereupon be repealed.”

Article XII, Section 10, Clayton City Charter

- “The commission shall **hold a public hearing on each application for amendments, modifications, or revisions of the zoning ordinance**, and shall forward such application to the board of aldermen with its recommendations

thereon. **For at least seven days immediately prior to the date of the public hearing** on any proposed amendment, modification, or revision, the commission shall cause **public notices to be maintained in at least five public places**, two of which shall be upon the property which would be affected by the proposed change in the zoning ordinance. **At least ten days prior to such hearing**, the commission **shall mail a written notice to the last known place of abode of the owners of all property**, according to current city tax records, **adjacent to or lying within one hundred and eighty-five feet of all boundaries of the property under consideration**. In addition, the commission shall cause **notice of the hearing to be published at least two times in a newspaper** printed or published in the city, or if there be no newspaper printed or published in the city, then in any daily newspaper of general circulation in the city. The first publication shall be at least fifteen days prior to the date of the hearing. All such notices shall describe briefly the proposed amendment, modification, or revision and indicate the time and place of the hearing. In the event of a general revision of the zoning ordinance such notices shall not be required.”

Article IX, Section 3, Clayton City Charter

“Amendments to this charter may be framed and submitted to the electors . . . by petition of not less than **ten percent of the registered qualified electors** of the city, filed with the city clerk, **setting forth the proposed amendment**.”

Article XIII, Section 16, Clayton City Charter
and

Article VI, Section 20, Missouri Constitution

The petition necessarily amends the Clayton Charter by changing the prescribed process for adopting zoning measures by adding mandatory referral to the electorate, and by eliminating the public notice and hearing requirements that are conditions precedent to revisions to zoning ordinances. It also eliminates the exemption from referral for zoning ordinances passed on the day of introduction and the time limit for seeking referral, and changes the standard for voter approval of referred ordinances.

The petition is defective in that (a) it does not set forth the charter amendments it proposes, and (b) it is not signed by the number of registered qualified electors required by the Missouri Constitution and the Clayton Charter.

3. If the petition is not viewed as proposing submission of amendments to the Clayton Charter, then it is nonetheless insufficient and invalid in that it proposes to accomplish by ordinance what the Clayton Charter and the Missouri Constitution reserve to the exclusive province of the voters: changing the charter (in the particulars described above). If the petition is not an inadequate and insufficient putative charter amendment as discussed above, then the purported “ordinance” it proposes is a nullity and is not an “ordinance” within the meaning of Article XII, Section 1 of the Clayton Charter authorizing enactment of ordinances by initiative because either (a) the Charter cannot be amended by an ordinance, or conversely, (b) it is an inadequate and invalid ordinance because it is in conflict with the Clayton Charter.
4. The measure set out in the petition says:

“the city of Clayton shall not . . . issue any permit . . . building permit or any other permit for development or redevelopment of any building or buildings [having] more than ten stories . . . a height of more than two hundred feet . . . or have

more than two hundred thousand square feet, without the approval of the electors . . . equal to or in excess of 51% of the total number of votes cast by registered voters in the city of Clayton in the last United States presidential election.”

The voter approval requirement applies to any:

“ . . . construction projects . . . that have not on or before December 31, 2016, for all phases of the . . . construction received all . . . construction permits, building permits . . . and all other permits required by the city. . . in final form.”

There are approximately 40 existing or proposed buildings in Clayton that meet at least one of the three criteria in the proposed measure. They include existing hotels (Ritz Carlton, Sheraton) residential buildings (Clayton on the Park, Maryland Walk, the Plaza in Clayton, The Crescent, 212 S. Meramec, etc.) as well as several office buildings. Obviously, any new “construction projects” proposed at any time in the future in any of those buildings to “redevelop” portions or units within the structure will not have “received . . . all building permits” prior to December 31, 2016.

The proposed measure would require that no building permit, electrical permit, plumbing permit or, indeed, occupancy permit could be issued until and unless the question of each permit is separately submitted to the electorate and approved by enough voters to equal to 51% of the total votes cast in the City in the most recent presidential election.

Missouri law is that the power of initiative and referendum apply only to ordinances that are legislative in character not administrative. The proposed measure would require referral to the voters of multiple administrative matters as described above. The petition is, therefore, insufficient and invalid in that the purported “ordinance” proposed is a nullity and is not an “ordinance” within the meaning of Article XII, Section 1 of the Clayton Charter authorizing enactment of ordinances by initiative since it is not restricted to legislative matters.

5. Missouri courts have declared that a proposed initiative ordinance that would amend existing zoning ordinances without following the public hearing, published notice and Plan Commission review procedures mandated by state law and local charter is “unlawful and void.” The petition presented here would amend numerous existing zoning ordinances of Clayton. None of the pre-adoption procedures required by the Charter and state law are provided for in the measure as presented, and none of them have been satisfied as to the measure itself. The initiative power is no more expansive than the legislative power of the Board of Aldermen. Just as the Board of Aldermen cannot enact an ordinance without complying with mandatory procedures, the people cannot enact the measure described in this petition without fulfilling the conditions precedent to enactment. The petition is, therefore, insufficient and invalid in that the purported “ordinance” proposed is a nullity and is not an “ordinance” within the meaning of Article XII, Section 1 of the Clayton Charter authorizing enactment of ordinances by initiative since the procedures required prior to enactment of an ordinance are not provided for.
6. The initiative violates due process in that it affects vested rights of property owners who have already built or made an investment in the type of buildings described in the proposed enactment and who may want to renovate or make repairs requiring a permit in the future. It also violates due process in that it affects vested development rights of property owners who are now in the process of acting on prior zoning authorizations of the City.

As stated above, the initiative power is no more expansive than the legislative power of the Board of Aldermen. Just as the Board of Aldermen cannot enact an ordinance which violates the Constitution neither can the electorate. The petition is, therefore, insufficient and invalid in that the purported "ordinance" proposed is a nullity and is not an "ordinance" within the meaning of Article XII, Section 1 of the Clayton Charter authorizing enactment of ordinances by initiative since the proposed measure is not a lawful exercise of the legislative power.

7. The voter approval requirement of the proposed measure quoted above (approval equal in number to 51% of total votes cast for president in the city) violates the constitutional mandate for one-person-one-vote and majority rule. A measure referred to voters will not be approved even if a majority of voters vote for it unless the yes votes reach 51% of the presidential vote. Conversely, under the plain language of the proposal, a measure will be approved even if a majority of voters vote against it so long as the number of yes votes reaches 51% of the total presidential vote.

Establishing an approval standard based on voter turnout in a prior election also results in a constitutional anomaly in that people who do not vote on any given permit approval proposition will be "counted" as effectively voting no.

As noted above, the initiative power is no more expansive than the legislative power of the Board of Aldermen. Just as the Board of Aldermen cannot enact an ordinance which violates the Constitution neither can the electorate. The petition is, therefore, insufficient and invalid in that the purported "ordinance" proposed is a nullity and is not an "ordinance" within the meaning of Article XII, Section 1 of the Clayton Charter authorizing enactment of ordinances by initiative since the proposed measure establishes a voter approval standard which does not take into account the number of votes cast or the will of the majority of participating voters contrary to the U.S. and Missouri Constitutions and the Clayton Charter.

I believe it is unnecessary for me to burden this report with further identification and analysis of the numerous additional deficiencies, inadequacies and illegalities which burden the petition now before the Board of Aldermen.

Despite the invalidity of the petition for initiative purposes I did, as required by Article XII, Section 1, of the City Charter undertake to assess whether the material submitted to me bears an adequate number of signatures. An initiative petition is required to contain signatures by electors of the city equal in number to at least 10% of the total number of votes cast for the office of mayor in the most recent mayoral election. A total of 1,813 votes were cast for the office of mayor in the most recent mayoral election, April 5, 2016. 10% of that total is 181. Thus, at least 181 signatures of electors of the city are required for an initiative petition to be numerically sufficient.

The Board of Election Commissioners has determined that the petition purporting to submit an initiative ordinance contains 450 valid signatures of Clayton electors.

This petition satisfies the numerical requirement for an initiative petition proposing the adoption of an ordinance by the electors of the City under Article XII, Section 1 of the Clayton Charter.

Records establish that there were 8,767 registered qualified electors in the City of Clayton at the April 2016 election. 10% of that total is 877. Thus, signatures of at least 877 registered qualified electors are required for a valid petition amending the Clayton Charter.

The petition does not satisfy the numerical requirement for a petition proposing amendments to the Clayton City Charter as required by Article XIII, Section 16, Clayton Charter and Article VI, Section 20, of the Missouri Constitution.

Conclusion

The initiated ordinance addressed in the petition filed with my office is not subject to the power of initiative or voter referral. The Clayton City Charter does not require or authorize any further action on the part of the Board of Aldermen with respect to the petition in question.

Respectfully Submitted, June Frazier, City Clerk

Mayor Sanger stated, "Thank you Ms. Frazier for the very thorough analysis and your findings. At this time I would also like to thank those that circulated the petition and those of our citizens that signed the petition as well as those that considered the petition and chose not to. The right to petition our government is an important aspect of democracy which is built into our Charter purposefully.

Those who built our Charter which was adopted 60 years ago today also built in limits and standards that are equally important to the respect of our citizens for equal protection from their government and assurance that small minorities will not grind government to a halt. Respect for our laws and the rights of citizens to expect government to function predictably and within limits, is part of our shared values. It must be noted that neither we as the elected officials, nor the public have the right to circumvent the requirements of the Clayton City Charter, and as the City Clerk has explained, the proposed petition attempts to do exactly that.

This is the second time in my tenure I have seen some effort to utilize petitions to reverse decisions of the Board of Aldermen. Both have had to do with large projects. As excited as we are to be witnessing (and playing a part in) this, the latest of many investment cycles in downtown Clayton that have taken place over many decades, we take note that such change can be unsettling to some in our community. If there were no pride in our city, change would be easy and likely much more quickly embraced. However, people who live here and those who have chosen to invest and do business here do have pride in what Clayton is and are aware of change that might in some way diminish the city they love. The stakes grow high as property values continue to rise in our community and the changes brought by prior generations continue to demonstrate their value.

Nobody feels that pride and pressure more than those of us elected to carry the torch and guide decisions on behalf of its citizens. Nobody is more passionate that we are about continuing our future and guiding change that adds progress to what is already a successful and very special city.

Having spent some time with people in the community who have expressed concern, opposition, and caution about Centene and other recent projects, I believe there may be one aspect of our process that creates an unfortunate disconnect and opens the door for suspicion that is uncomfortable both from those participating in our development process and those of us responsible for making these important decisions.

It is apparent that the petition circulated by the citizen group, however well-intentioned, included impossible, illogical, illegal, and economically crippling language. I believe even if the time, effort and cost were expended to present this defective proposition to the voters, it would be soundly dismissed. However, I believe and recommend that we as a Board and with input from our citizens and other stakeholders take a look at our Charter as it relates to initiatives, repeal provisions, and how ordinances are enacted to see if there are some adjustments that may

make sense to increase the confidence of citizens in the process, allow the appointed and especially the elected officials of our city to do a thorough and transparent review, and retain the tools any modern urban city needs to advance.

On a near future agenda I will ask our Board to convene a group to study this aspect of our Charter and any related policies or ordinances, and develop one or more recommendations. I believe our development review process is as thorough and transparent as any anywhere. But, I also believe there are some things that could make it better and that could alleviate the concerns by some when these big projects are considered.

Again, I want to say thank you to all of you who sent in comments, attend these types of meetings, talk to your neighbors and just generally stay involved with what is going on in Clayton. I believe that we all are working together to ensure that our city remains strong and prosperous for generations to come.

I know that there are some people in the room who will say that I just gave you a lecture that is not the intent. I just wanted to make sure that you understood from what the City Clerk spent all of her time and research on and the conclusions that were made and my comments that we have taken this very, very seriously. We are citizens of this community as well and we have been elected to do the job and we cannot violate that which we have sworn to uphold when each of us was elected and sworn into office. We swore to uphold the Constitution of the United States, the Constitution of the State of Missouri, and the Charter of the City of Clayton and that is what we must do and the petition that was turned in requires us to violate that."

In response to Mayor Sanger's request City Attorney O'Keefe stated, "I just want to reiterate that again, not questioning the earnestness or intent of the sponsors of the measure, or those who subscribed to the petition, that the measure as crafted however, well-meaning, is not only unworkable, but it is unconstitutional and invalid in toto.

I think it's important to recognize that in the effort to apply these concepts retroactively necessarily triggers significant constitutional problems. In the effort to be so pervasive in the requirements that the measure has it makes the measure absolutely and totally unworkable. For example, the language of the proposed measure states that the City of Clayton shall not issue any building permit or any other permit for development or redevelopment of the affected property without the approval of the electors equal to or in excess of 51% of the total number of votes cast by registered voters in the City of Clayton in the last United States presidential election. That means as it says that every building permit or other permit must be submitted to the electorate before the applicant can receive it.

There are only three election days a year, April, August, and November. If someone comes in and applies for a building permit for a project which is more than 10 stories and that permit is applied for on February 1st it would ordinarily be reviewed in a matter of a few days and ready for issuance - that permit would have to be withheld until it could be voted on in August. Assuming then it received an adequate number of yes votes that permit could be had. When the next permit comes along for electrical work that would have to be submitted to the electorate again and assuming it reaches an adequate number; when an occupancy permit is sought for the property that has been improved, that permit would have to be submitted to the electorate at the next available election and assuming that received an adequate number of yes votes the person could move into their unit. This includes redevelopment, such as projects like The Crescent, Maryland Walk, the new 212 S. Meramec building - every unit in those buildings that would be redeveloped or refurbished would require a building permit and have to go through this process before the unit owners could enjoy the project that they seek.

Let's talk about what the requirement is - it is to receive yes votes because each permit requires approval of the electorate in this fixed number. Let's leave aside for the fact whether we can figure out how many registered voters who live in Clayton actually voted for president, let's leave that conundrum aside, and let's say that is a fixed number of 4,000 votes. If 4,005 people vote against it, it still passes even if 4,000 people vote for it because it will have been approved by the requisite number whether or not the majority of votes cast would approve it. If a majority of voters approve it, but not enough to reach that number the permit is denied. If a majority of folks vote against it, but 4,000 people vote for it, it is approved regardless of the will of the majority and that can only happen on three election days per year.

The cost alone for these elections, for every permit, and for every election cycle to the city and the applicants, the delay in issuing permits to which they are entitled make this process absolutely unworkable from any legal or practical perspective.

There is not a doubt in my mind that if this matter was to be submitted to the elector and if they were to approve it, it would never go into effect because no court could allow it to occur because of its constitutional and legal defense.

This is also true with respect to the effort to repeal zoning approvals which are inherent in this and change the zoning of property which is inherent in this measure. There is a process for zoning approval which requires anyone seeking to rezone property. In order to meet these measures this process would shortcut, or voids all of that.

This process also submits to referendum bills which the Charter does not allow to go to referendum. It is from top to bottom an earnest effort to express a point of view, but it is not valid legislation which could ever be enforced or enacted."

A PUBLIC HEARING AND A RESOLUTION TO CONSIDER A CONDITIONAL USE PERMIT FOR MIDWEST REGIONAL BANK LOCATED AT 135 NORTH MERAMEC AVENUE RECOGNITIONS

Mayor Sanger opened the public hearing and requested proof of publication.

City Manager Owens reported that this is a public hearing to consider an application for a Conditional Use Permit submitted by Terry Dawdy, architect, on behalf of Michael Bender, CEO of Midwest Regional Bancorp, owner, to allow approximately half of the second floor (3,300 square feet) of the subject building to be used as a residential apartment unit. The owner has indicated his desire for a residential apartment within his building because he resides two hours south of Clayton and often conducts business late in the evening.

The 1.2-acre property contains a 6-story office building, primarily occupied by First Bank (3 of the 6 floors). Midwest Regional Bank will take occupancy of the first floor once First Bank vacates. To the City's knowledge, First Bank will continue to occupy their other two floors until their lease expires. The entire second floor, currently configured as office space, has been vacant for several years. The portion of the second floor not proposed for use as residential will remain office space. The property has a zoning designation of C-2 General Commercial. Section 405.3120 (Permitted Uses for the C-2 Zoning District) of the City's Zoning Regulations allow residential units with the approval of a Conditional Use Permit, provided the unit is at least 750 square feet. The proposed apartment contains 3 bedrooms, 3 ½ bathrooms and features a 1,600 square foot rooftop patio located on the existing first floor roof. The patio is subject to review and approval by the Architectural Review Board.

The Plan Commission considered the request for the Conditional Use Permit at its January 17, 2017, meeting and voted unanimously to recommend approval to the Board of Aldermen.

Recommendation is to approve a Conditional Use Permit for Michael Bender, owner and CEO of Midwest Regional Bancorp to allow an approximately 3,300 square-foot apartment on the second floor of the subject building, pursuant to the stipulations and conditions listed in the resolution.

Terry Dawdy, architect and Kevin Lassiter, contract employee to Midwest Bank, addressed the Board to answer questions.

Mayor Sanger commented that he thinks the plan is great, residential living in an urban downtown area.

Mr. Dawdy added that there are plans in the future to upgrade the entire building.

Alderman Boulton suggested that the Board is invited to check out the patio area when completed.

Mayor Sanger closed the public hearing.

Alderman Winings moved to approve Resolution No. 17-01, a Conditional Use Permit for Midwest Bank. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

AN ORDINANCE TO CONSIDER APPROVING AN EASEMENT AGREEMENT TO FACILITATE CONSTRUCTION OF CERTAIN IMPROVEMENTS RELATED TO THE CENTENE EAST REDEVELOPMENT PROJECT

City Manager Owens reported that Centene Center II, LLC has requested both aerial and subsurface easements to facilitate construction of Centene's new development adjacent to City rights-of-way associated with Parcels A, B, C, D, E, F, & G of the Centene East Redevelopment Project. The easements are: (a) temporary aerial easements for construction cranes within the site with an operational radius that extends into air space above our rights-of-way, and (b) permanent subsurface easements for the placement of tieback and shoring walls. The respective easement areas are illustrated in the Exhibits to the Tieback and Crane Easement Agreement.

Both Public Works and the City Attorney have reviewed and approved the attached easement titled, Tieback and Crane Easement Agreement.

Recommendation is to approve the ordinance authorizing execution of the Tieback and Crane Easement Agreement.

Alderman Winings recused himself from the meeting at 7:39 p.m.

Alderman Lintz asked for clarification with regard to the easements located on the north side of Forsyth.

Ted Hogue, Cushman Wakefield, addressed the Board explaining that the location that was selected is to prevent them from having to come back to the City with a request every time they may have to place a crane over a public right-of-way.

In response to Alderman Lintz's question regarding the area over Forest Park Parkway, Mr. Hogue stated that at this time they will not be seeking easements over the Parkway. City Attorney O'Keefe clarified that the City cannot issue easements over Forest Park Parkway nor for any private property owners.

In response to Alderman Berkowitz's question, City Attorney O'Keefe explained that the easement does not grant any rights to private property and any damage that may be caused would be the responsibility of the person causing the damage, not the grantor.

Alderman Boulton introduced Bill No. 6601, an ordinance to approve an easement agreement to facilitate construction of certain improvements related to the Centene East Redevelopment Project to be read for the first time by title only. Alderman Berger seconded.

City Attorney O'Keefe reads Bill No. 6601, an Ordinance Approving an Easement Agreement to Facilitate Construction of Certain Improvements Related to the Centene East Redevelopment Project for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Boulton moved that the Board give unanimous consent to consideration for adoption of Bill No. 6601 on the day of its introduction. Alderman Berger seconded.

The motion passed unanimously on a voice vote.

Alderman Boulton introduced Bill No. 6601, an ordinance to approve an easement agreement to facilitate construction of certain improvements related to the Centene East Redevelopment Project to be read for the second time by title only. Alderman Berger seconded.

City Attorney O'Keefe reads Bill No. 6601, an Ordinance Approving an Easement Agreement to Facilitate Construction of Certain Improvements Related to the Centene East Redevelopment Project for the second time by title only.

Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6470 of the City of Clayton.

Alderman Winings rejoined the meeting at 7:45 p.m.

AN ORDINANCE TO CONSIDER APPROVING A CONTRACT WITH CHIODINI ARCHITECTS FOR THE 10 S. BRENTWOOD BOULEVARD BUILD-OUT DESIGN

City Manager Owens reported that the Public Works Department is requesting approval of a contract for the design of the 10 S. Brentwood Boulevard Build-Out Project. On August of 2016, the Board was briefed on the Facility Space Efficiency Study which analyzed the use of space in the 10 S. Brentwood Boulevard and 10 N. Bemiston Avenue facilities. The "build-out" would provide space to relocate the Departments of Administrative Services, Planning and Development, and Public Works from 10 N. Bemiston Avenue to 10 S. Brentwood Boulevard. You may recall that "Option B", which had the Council Chambers located at the north end of the fourth floor, was the preferred preliminary layout. The Opinion of Cost for construction of "Option B" was \$2.6 million with an additional \$600,000 for roof repairs. Based on this information, the Public Works Department was directed to initiate the consultant selection process for design of the project.

The Public Works Department solicited Requests for Qualifications and received submittals from five design teams. Based on the qualifications presented, the Public Works Department is recommending the City enter into a contract with Chiodini Architects. The experience of the

Chiodini design team with respect to the design of City Halls and Government Centers is extensive. Their most recent experience includes City Halls for the cities of Belleville and Wentzville. Other past experience includes the cities of Bridgeton, Columbia, Maryland Heights and Woodson Terrace.

Chiodini's proposal is broken out into two packages.

"Package A" is priced at \$80,000.00 and includes the following deliverables:

- Space & Operational Needs Analysis / Programming
- Conceptual Development
- Schematic Design & Cost Estimate with LEED Alternate Evaluation

The deliverables from this package will provide the refined information including scaled floor plans, roof plans, exterior elevations, preliminary design of structural system to raise the roof for the Council Chambers, Schematic Design Cost Estimates and project schedule necessary to determine the course of action to proceed to "Package B".

"Package B" is priced at a **Total Fee** not-to-exceed 8% of Cost of Construction. Note the **Total Fee** is inclusive of the "Package A" fee. "Package B" includes the following deliverable:

- Design Development
- Construction Documents
- Construction Phase Services

The deliverables from this package will include the necessary documents to bid for construction, advice to and consultation with City as Owner's Representative and site observations during the construction phase.

Funding for this project was not included in the FY 2017 budget as the Capital Improvement Fund process was already completed prior to the presentation of the Facility Space Efficiency Study. Hence, the Public Works Department has proposed an FY 2017 First Quarter Budget Adjustment of \$390,000 based on the Opinion of Cost for construction of "Option B" from the Facility Space Efficiency Study.

Recommendation is to approve the ordinance authorizing a contract with Chiodini Architects in the amount of \$80,000.00 for "Package A" and a Total Fee not-to-exceed 8% of the Cost of Construction for the 10 S. Brentwood Boulevard Build-Out Design.

Chris Chiodini, Chiodini Architects, addressed the Board stating that it's good to be back.

Mayor Sanger commented that Chiodini has a long history in Clayton and Chris' father designed the Council Chambers.

Mayor Sanger also noted that the designs did not include the mayor's office.

Alderman Winings introduced Bill No. 6602, an ordinance to approve a contract with Chiodini Architects for the 10 S. Brentwood Boulevard build-out design project to be read for the first time by title only. Alderman Boulton seconded.

City Attorney O'Keefe reads Bill No. 6602, an Ordinance Approving a Contract with Chiodini Architects for the 10 S. Brentwood Boulevard Build-Out Design for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Winings – I move that the Board give unanimous consent to consideration for adoption of Bill No. 6602 on the day of its introduction. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

Alderman Winings introduced Bill No. 6602, an ordinance to approve a contract with Chiodini Architects for the 10 S. Brentwood Boulevard build-out design project to be read for the second time by title only. Alderman Boulton seconded.

City Attorney O’Keefe reads Bill No. 6602, an Ordinance Approving a Contract with Chiodini Architects for the 10 S. Brentwood Boulevard Build-Out Design for the second time by title only.

Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6471 of the City of Clayton.

ORDINANCE – 1ST QUARTER AMENDMENT TO THE FISCAL YEAR 2017 BUDGET

City Manager Owens reported that the City of Clayton reviews and makes adjustments to its budgeted revenues and expenditures on a quarterly basis to respond to changes as the fiscal year progresses and to update the Board regarding budgetary issues. As part of the quarterly budget review, staff is presenting for consideration the first amendment to the Fiscal Year 2017 (FY17) Budget. Most of this amendment consists of projects or equipment that was delayed from last year. The 1st Quarter Financial Report will be on the March 14 meeting agenda.

Alderman Winings introduced Bill No. 6603, an ordinance to consider approving the 1st Quarter Budget amendment to be read for the first time by title only. Alderman Boulton seconded.

City Attorney O’Keefe reads Bill No. 6603, an Ordinance Amending the Fiscal year 2017 Budget and Appropriating Funds Pursuant Thereto for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Winings moved that the Board give unanimous consent to consideration for adoption of Bill No. 6603 on the day of its introduction.

The motion passed unanimously on a voice vote.

Alderman Winings introduced Bill No. 6603, an ordinance to consider approving the 1st Quarter Budget amendment to be read for the second time by title only. Alderman Boulton seconded.

City Attorney O’Keefe reads Bill No. 6603, an Ordinance Amending the Fiscal year 2017 Budget and Appropriating Funds Pursuant Thereto for the second time by title only.

Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6472 of the City of Clayton.

Other

Alderman Boulton expressed Valentine's Day greetings to everyone.

Alderman Berger reported on the following:

- NUERF – met this week and the consultant provided a very good assessment with regard to investment strategy, policy, and the attainment of 7% return.
- CRSWC – meeting to review the final presentation on The Center of Clayton Capital Plan to present to the Board of Education and the Board of Aldermen.
- Art Fair Board Meeting – dynamic presentation.

Alderman Lintz reported on the following:

- NUERF & UERF – both pension funds had a strong performance.
- Met with the Clayton Condominium Building Association – very nice people.

Alderman Berkowitz reported on the following:

- CCF – appointed six new members; introduced methodology for assessing goals and objectives for each of its various subcommittees.
- Ice Rink Steering Committee – discussed and reviewed proposed plans from the engineers.

There being no further business the meeting was adjourned at 8:00 p.m.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR SANGER; BOARD OF ALDERMEN
FROM: CRAIG OWENS, CITY MANAGER
DATE: MARCH 14, 2017
SUBJECT: ORDINANCE - FUNDING AGREEMENT WITH FLAHERTY & COLLINS DEVELOPMENT, LLC

On April 24, 2015 a Request for Proposal (RFP) was issued for the City's surface parking lot located at 8049 Forsyth Boulevard. After receiving multiple proposals and considering several options for the site, the City selected Flaherty & Collins Development, LLC to develop a 25-story building with 250 apartments, 10,000 square feet of retail, and an adjacent parking structure.

The City desires that Flaherty & Collins Development, LLC should bear the costs borne by the City to pay some of the City's out-of-pocket costs in connection with the City's negotiating and documenting the sale, considering Flaherty & Collins' plans, exploring, evaluating, and engaging the public regarding the plans, and negotiating and preparing a development agreement to protect the City's interest in seeing the project developed. The developer has agreed to reimburse the City for such professional services. If the initial funds are depleted the developer must deposit additional funds with the City. This does not approve any public private partnerships or sale of any City owned land, but rather is an agreement by the developer to reimburse the city for any expenses and analyses by the City.

The proposed ordinance would authorize the execution of the preliminary funding agreement.

RECOMMENDATION: To approve the ordinance.

BILL NO. 6604

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY TO EXECUTE A FUNDING AGREEMENT WITH FLAHERTY & COLLINS DEVELOPMENT, LLC IN CONNECTION WITH A PROPOSED REDEVELOPMENT PROJECT AT FORSTYH BOULEVARD AND BRENTWOOD BOULEVARD

WHEREAS, the City of Clayton, Missouri (the “City”) issued a Request for Proposal (“RFP”) to redevelop a certain parcel generally located at the northeast corner of the intersection of Forsyth Boulevard and Brentwood Boulevard (the “Proposed Redevelopment Area”); and

WHEREAS, the City received and evaluated multiple responses to the RFP; and

WHEREAS, F&C Development, LLC., an Indiana corporation d/b/a Flaherty & Collins Properties (the “Developer”), was selected as the winning response; and

WHEREAS, the Developer has proposed paying the City \$1,100,000 for the site and developing a 25-story apartment building with ground floor retail; and

WHEREAS, the City reasonably anticipates that the City’s sale and development documentation and the Developer’s land use approval applications will be complex, multi-faceted and require extraordinary resources to process in an effective and timely manner; and

WHEREAS, the Board of Aldermen believes that costs of the City associated with further consideration of Developer’s proposed purchase and land use applications should be borne by the Developer and not by the City.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

SECTION ONE. Authority for Agreement

The City Manager is hereby authorized and directed to enter into a Funding Agreement (the “Agreement”) with the Developer, said Agreement to be in substantially the form attached hereto as **Exhibit A**, for the purpose of establishing the Developer’s obligation to fund certain costs anticipated to be incurred by the City in negotiating and documenting the sale of the City’s land and in considering the Developer’s requests relating to land use approvals by the Plan Commission, Architectural Review Board and Board of Aldermen.

SECTION TWO. Escrow Account

The Finance Director is hereby directed and authorized to deposit any and all funds received pursuant to the Agreement into a special, separate escrow account and to disburse such funds in accordance with the Agreement for such expenses as may be reasonably incurred for the purposes authorized in the Agreement.

SECTION THREE. Effective Date

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the board of Aldermen this 14th day of March, 2017.

Mayor

Attest:

City Clerk

EXHIBIT A
PRELIMINARY FUNDING AGREEMENT

PRELIMINARY FUNDING AGREEMENT

THIS PRELIMINARY FUNDING AGREEMENT (the “**Agreement**”) is made and entered into as of the ____ day of _____, 2017, by and between the **CITY OF CLAYTON, MISSOURI** (the “**City**”) and **F&C DEVELOPMENT, INC.**, an Indiana corporation, d/b/a Flaherty & Collins Properties (the “**Developer**”).

RECITALS

1. Developer has advised the City of its desire to develop certain parcels of real estate generally located on the northeast corner of Brentwood Boulevard and Forsyth Boulevard, Clayton, Missouri (the “**Proposed Development Area**”), one of which parcels is owned by the City.

2. The City’s parcel of real estate contains approximately .86 acres of land and is listed as Locator No. 18K311008 in the St. Louis County Assessor’s Records (the “**City Real Property**”), and the City is willing to explore a sale of the City Real Property to Developer, provided the City obtains assurance that the City Real Property will be developed, improved and operated in accordance with the City’s Downtown Master Plan (2010) on terms acceptable to the City (the “**Development Project**”).

3. Developer desires to acquire the City Real Property from the City and to develop and construct the Development Project, provided Developer and the City can come to an agreement on the terms of the Property acquisition and the design and construction of the Development Project.

3. Subject to the terms of this Agreement, Developer agrees to pay certain costs of the City in connection with the City’s reviewing and evaluating (i) the sale of the City Real Property and (ii) the design and construction of the Development Project.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Advance of Funds.

(a) The Developer shall advance the City the sum of Fifteen Thousand and no/100 (\$15,000.00) upon execution of this Agreement (the “**Preliminary Funds**”). The City shall use the Preliminary Funds to pay or reimburse the City for payment of actual out-of-pocket third-party fees and costs incurred by the City for legal, financial, consulting and planning services, including legal fees of the City’s counsel, the law firm of Curtis, Heinz, Garrett & O’Keefe, P.C. (the “**City Attorney**”), related to the review and assemblage of documentation concerning the consideration, negotiation, preparation, and potential approval and implementation of documents pertaining to the sale of the City Real Property and the design and construction of the Development Project, including ordinances necessary or appropriate to accomplish the sale and implement the Development Project, and all other necessary or appropriate activities and documentation related to the foregoing, all in the City’s good faith discretion (collectively, the “**Work Program**”, and the said fees and costs thereof collectively, the “**City Costs**”), it being understood that the Developer’s payment or reimbursement of the City Costs shall not obligate the City to implement or approve any of the foregoing. The Work Program shall be performed by consultants and attorneys selected by the City at rates and fees competitive in the marketplace, and the City shall pay the City Costs only in accordance with paragraph 2 below. When practical and when City Costs on any singular item of service (i.e., architectural consulting fees, environmental assessments, traffic studies) are estimated by the City to be in excess of \$20,000, City shall notify Developer of such services and the

estimated City Costs therefor prior to employing such services. The City's estimated City Costs shall not be a guaranty or cap of the City Costs; and Developer shall remain liable for all City Costs incurred in good faith by the City in connection with the Work Program.

(b) In the event the City Costs related to the Work Program exhaust or exceed, or are reasonably anticipated to exhaust or exceed, the Preliminary Funds, then upon receipt of a written statement from the City, detailing the fees and expenses which the City has incurred to date in connection with the Work Program and detailing the additional fees and expenses which the City anticipates being required to perform the Work Program, Developer shall pay the City the amounts set forth on such statement (the "**Additional Funds**") within ten (10) business days after receipt thereof. In addition, if the City Costs related to the Work Program exhaust or exceed any Additional Funds provided by the Developer, the City may provide an additional statement to the Developer for still more Additional Funds pursuant to the forgoing provisions.

(c) If the parties enter into an agreement concerning the acquisition of the City Real Property and the development of the Development Project (the "**Development Agreement**"), this Agreement shall be made an exhibit to the Development Agreement. Among other things, the Development Agreement shall provide for the disbursement of any of the Preliminary Funds or Additional Funds that remain undisbursed hereunder.

2. **Disbursement.** Subject to the remaining provisions of this Agreement, the City shall disburse Preliminary Funds and Additional Funds if any (collectively, the "**Funds**") on a monthly basis to pay City Costs for any month in which City Costs are actually incurred, or to reimburse the City for City Costs previously incurred and paid by the City, in connection with the Development Project, but only upon receipt of (a) invoices for work reasonably and actually performed by the selected consultants and attorneys in accordance with the Work Program and for administrative costs and expenses incurred by the City relating to the Work Program; (b) invoices and/or receipts for out-of-pocket expenses incurred by such parties in connection with such work; and (c) such other supporting documentation as may be requested by the City (collectively, a "**Disbursement Request**"). The City Manager shall use reasonable care in ascertaining whether the amounts charged to the City pursuant to each Disbursement Request are fair and reasonable amounts for the work represented on each Disbursement Request; provided, however, that the City Manager's good faith determination in this regard shall be final and conclusive.

3. **Copies of Disbursement Requests.** The City Manager shall forward a copy of each Disbursement Request to Developer upon request. The copy of each Disbursement Request provided to Developer shall include an itemization of the City Costs paid or to be paid by the City and copies of the consultants' invoices for the work performed, provided, however, that invoice entries that could compromise attorney-client privilege or confidentiality or other privileged information or communication may be redacted therefrom. If the Developer has questions regarding any Disbursement Request, the Developer may direct such questions in writing to the City Manager. In such event, the City and the Developer shall in good faith attempt to resolve any questions so raised and to the extent necessary, shall communicate or negotiate with the appropriate third party consultant. If any credit, or refund, or offset is obtained from any third party consultant, it shall be applied against the Developer's funding obligation hereunder.

4. **Negotiation of Development Agreement; Board Approvals.** The City agrees to meet with the Developer and attempt to agree upon a mutually acceptable Development Agreement whereby the Developer will acquire the City Real Property and construct the Development Project. In addition, the City and the Developer agree to take other reasonable actions precedent to the consideration by the Board of Aldermen of (i) the approval of the Development Agreement and, if approved, (ii) the subsequent approval of the Development Project, subject to the terms of the Development Agreement; provided, that

nothing herein shall obligate the City to approve the Development Agreement or the Development Project.

5. The Developer's Right of Termination. The Developer may terminate this Agreement at any time in its sole discretion upon giving the City ten (10) days' prior written notice; whereupon ten (10) days following the Developer's delivery of said notice this Agreement shall be deemed terminated. Upon receipt of such notice, the City shall cease incurring expenditures under this Agreement as soon as reasonably possible. The City shall pay to the Developer, within sixty (60) days after the Developer delivers notice of its termination under this Section, all Funds remaining on hand after the City's payment of all Disbursement Requests submitted pursuant to this Agreement for work performed through the date of termination.

6. City's Right of Termination. The City may terminate this Agreement upon giving the Developer ten (10) days' prior written notice if (a) a Development Agreement is not executed within a reasonable time (as determined by the City in its reasonable discretion), (b) the City shall reject, or otherwise terminate further consideration of, the Development Project in accordance with the terms of the Development Agreement, or (c) all of the Funds advanced hereunder have been spent and the Developer does not provide Additional Funds to the City. Upon giving such notice under this Section, the City shall cease incurring expenditures under this Agreement. The City shall pay to the Developer, within sixty (60) days after the City delivers notice of its termination of this Agreement under this Section, all Funds remaining on hand after the City's payment of all Disbursement Requests submitted pursuant to this Agreement for work through the date of termination.

7. No Third Party Beneficiaries. This Agreement constitutes a contract solely between the City and the Developer. No third party has any beneficial interest in or derived from this Agreement.

8. Notices. All notices and correspondence hereunder shall be in writing and shall be delivered by hand delivery, email, or first class mail, postage prepaid, to the parties as set forth below:

If to the City:

City of Clayton
10 N. Bemiston Avenue
Clayton, Missouri 63105
Attention: City Manager
Email: cowens@claytonmo.gov

with a copy to:

Curtis, Heinz, Garrett & O'Keefe, P.C.
130 South Bemiston, Suite 200
St. Louis, Missouri 63105
Attn: Kevin M. O'Keefe
Email: KOKeefe@chgolaw.com

If to the Developer:

F&C Development, Inc.
One Indiana Square, Suite 3000
Indianapolis, Indiana 46204
Attention: Deron Kintner

Email: dkintner@flco.com

with a copy to:

Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
Attention: James A. Fredericks
Email: jfredericks@armstrongteasdale.com

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph.

9. Miscellaneous.

a. Severability. If any provision of this Agreement is unenforceable, the remainder of this Agreement shall be enforced as if such provision were not contained herein.

b. No Waiver. Failure of any party hereto to enforce its rights hereunder at any time shall not be deemed a waiver of any such rights.

c. Representations and Warranties. The Developer and the City each represent and warrant that (i) this Agreement has been duly executed by them or on their behalf, as the case may be, pursuant to due authorization, and is not in violation of any such party's governing documents, charter or ordinances, as the case may be, (ii) no consents are necessary for the execution, delivery, and performance of this Agreement by such party, and (iii) this Agreement is valid, binding and enforceable against such party in accordance with its terms.

d. Assignment. This Agreement may not be assigned by either party without the written consent of the other.

e. Survival. Notwithstanding the expiration or termination or breach of this Agreement by either party, the City's obligations with respect to repayment of unexpended Funds and delivery of copies of Disbursement Requests shall survive expiration, termination or breach of this Agreement by either party.

10. Limitation of Liability. Notwithstanding any provision hereof to the contrary, the City and its officials, agents, employees and representatives, including the City Attorney, shall not be liable to the Developer for damages or otherwise if this Agreement is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges contemplated hereunder.

11. Counterparts. This Agreement may be executed in counterparts and exchanged by facsimile (fax) or electronic (email) transmission; the fax/email copies of each party's respective signature shall be deemed an original signature; all of which together shall constitute one and the same binding instrument.


[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Preliminary Funding Agreement to be duly executed as of the date first above written.

CITY OF CLAYTON, MISSOURI

By: _____
Name: Craig S. Owens
Title: City Manager

F&C DEVELOPMENT, INC., an Indiana corporation, d/b/a Flaherty & Collins Properties

By: 
Name: DERON KINTNER
Title: GENERAL COUNSEL



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR SANGER; BOARD OF ALDERMEN
FROM: CRAIG OWENS, CITY MANAGER
DATE: MARCH 14, 2017
SUBJECT: LEASE AGREEMENT BETWEEN ST. LOUIS COUNTY PORT AUTHORITY AND THE CITY OF CLAYTON

On April 28, 2005, the City entered into a lease with St. Louis County, Missouri, to maintain a public parking lot on land bound by Carondelet Avenue on the south, Central Avenue on the west, Bemiston Avenue on the east, and the mid-block east west alley between Central Avenue and Bemiston Avenue on the north. The lease required the City to maintain approximately one hundred fifty (150) public parking spaces on the site and share equally the gross revenue with the County. On February 24, 2017, St. Louis County transferred ownership of the land to the St. Louis County Port Authority. The Port Authority now wishes to enter into a new lease with the City. The major points of the proposed lease are as follows:

1. The City is to maintain approximately 150 spaces and be responsible for the daily operation including providing all routine services and capital improvements.
2. Sharing all major repair costs with the Port Authority once the Port Authority has given its consent to proceed with the repairs.
3. Share equally all gross parking charge revenue with the Port Authority.
4. Enforce all traffic and parking laws on the parking lot. Parking tickets and traffic tickets are not to be included in gross parking charge revenue that is shared with the Authority.
5. The original term is one year and renews automatically each year provide neither party gives a 90 day notice to terminate.

All provisions in the proposed lease are similar to the original contract with the addition that the Port Authority grants consent to major repair costs.

RECOMMENDATION: To approve the ordinance.

BILL NO. 6605

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY TO EXECUTE A LEASE WITH THE ST. LOUIS COUNTY PORT AUTHORITY IN CONNECTION WITH A SURFACE PARKING LOT

WHEREAS, The City previously entered that certain lease agreement with St. Louis County, Missouri ("County") dated April 28, 2005, for the City to maintain a public parking lot on certain land then-owned by the County ("Premises") and share the revenue produced by such lot with the County ("County Lease Agreement"); and

WHEREAS, according to the County Lease Agreement, that lease terminates automatically upon the County transferring the Premises, or any portion thereof, to a third party; and

WHEREAS, on February 24, 2017, the County transferred the Premises to the Authority; and

WHEREAS, the Authority desires to enter into a lease agreement with Clayton providing that Clayton is to maintain a public parking lot on the Premises, and for Clayton to share the revenue produced by such lot with the Authority;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

The City Manager is hereby authorized to enter into a Lease Agreement (the "Agreement") with the St. Louis County Port Authority, said Agreement to be in substantially the form attached hereto as **Exhibit A**.

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the board of Aldermen this 14th day of March, 2017.

Mayor

Attest:

City Clerk

EXHIBIT A
Lease Agreement

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into by and between the CITY OF CLAYTON, MISSOURI ("Clayton") and the ST. LOUIS COUNTY PORT AUTHORITY ("Authority") as of this ___ day of _____, 2017.

WHEREAS, Clayton previously entered that certain lease agreement with St. Louis County, Missouri ("County") dated April 28, 2005 to maintain a public parking lot on certain land then-owned by the County ("Premises") and share the revenue produced by such lot with the County ("County Lease Agreement"); and

WHEREAS, according to the County Lease Agreement, that lease terminates automatically upon the County transferring the Premises, or any portion thereof, to a third party; and

WHEREAS, on February 24, 2017, the County transferred the Premises to the Authority; and

WHEREAS, the Authority desires to enter into a lease agreement with Clayton providing that Clayton is to maintain a public parking lot on the Premises, and for Clayton to share the revenue produced by such lot with the Authority; and

WHEREAS, this Lease Agreement is authorized by signature of the Executive Director of the Authority below and by Clayton Ordinance No. ____.

NOW THEREFORE, it is agreed by and between the City of Clayton, Missouri and the St. Louis County Port Authority as follows:

1. Leased Premises. The Authority hereby leases to Clayton the Authority's real property located at the Northeast corner of Carondelet and Central Avenues in the City of Clayton, Missouri, which is further described on the attached **Exhibit A**, such property as of this date being used as a public parking lot ("Premises").

2. Use and Maintenance of the Premises. Clayton agrees to use the Premises as a public parking lot ("Lot") and to maintain approximately one hundred fifty (150) parking spaces. Clayton agrees to be responsible for the daily operation of the Lot and maintenance of the Lot and Premises by providing and paying for all routine operational services and capital improvements, including but not limited to sweeping, litter and snow removal, routine and preventive maintenance of the pavement, sewers, and pavement markings, signage, gates, parking meters, lighting system, utility expenses, and landscaping of the Lot and Premises.

3. Major Repairs. The Authority and Clayton shall share in costs necessary to rehabilitate pavement in the parking lot, including storm sewer repairs, other improvements associated with the parking facility or connection to the public systems (the "Major Repairs"). Notwithstanding the foregoing, the decision of whether to undertake Major Repairs is ~~within~~ subject to the ~~sole-sound~~ discretion and mutual agreement of the Authority and the City. Under

no circumstances is Clayton to incur costs associated with or related to Major Repairs unless it has obtained the prior written consent of the Authority.

4. Parking Charges/Collection/Accounting. Charges for parking—whether by meter, permit or otherwise—and the method of collection of such charges shall be within Clayton’s sole discretion. Clayton shall collect and account to the Authority for all revenues from parking charges. The Authority shall have the right to inspect, subject to advance notice and during regular business hours, all accounting records pertaining to revenue from the operation of the Lot.

5. Parking Charge Revenue. The Authority and Clayton shall share equally in the gross revenue generated by the parking charges beginning on February 25, 2017 and continuing through the termination of this Agreement. Payments shall be made from Clayton to the Authority on a quarterly basis.

6. Parking Regulations and Enforcement. Clayton may enact any necessary parking regulations and shall, in its discretion, enforce the regulations and other applicable traffic laws and any parking time limits. Any revenue generated by the enforcement of traffic laws and parking time limits shall not be treated as parking charge revenue subject to sharing with the Authority, but will remain with Clayton.

7. Term. The original term of this Agreement shall be February 25, 2017 through February 28, 2018. Thereafter, this Agreement shall automatically renew each year for one year terms; provided, however, that either party may terminate this Agreement upon ninety (90) days prior written notice to the other party. Notwithstanding the foregoing, this Agreement shall automatically terminate on the date that the Premises, or any part thereof, is transferred to a third party.

8. Notice. Any notice, communication or statement required or permitted to be given hereunder shall be in writing and deemed to have been sufficiently given when delivered in person or by registered or certified mail, postage prepaid, return receipt requested, to the address of the respective party below:

To the Authority:

St. Louis County Port Authority
7733 Forsyth Blvd., Suite 2300
St. Louis, Missouri 63105
Attn: Dustin Allison, General Counsel

To Clayton:

City of Clayton
10 N. Bemiston Ave.
Clayton, Missouri 63105
Attn: City Manger

9. Counterparts. This Agreement may be executed in any one or more counterparts, each of which shall constitute an original, no other counterpart needing to be produced, and all of which, when taken together, shall constitute but one and the same instrument. Facsimile or PDF (email) signature pages of this Agreement shall be valid and binding as original signatures and shall be considered an agreement of the respective parties to fully execute and deliver originally signed copies of this Agreement.

10. Entire Agreement. This Agreement embodies the entire agreement between the Authority and Clayton in connection with the Premises, and there are no oral or parol agreements, representations or inducements existing between the parties relating to this transaction which are not expressly set forth herein and covered hereby. This Agreement may not be modified except by a written agreement signed by the Authority and Clayton.

11. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri, without reference to the conflicts of laws principles of such State.

12. No Waiver. No written waiver by any party at any time of any breach of any provision of this Agreement shall be deemed a waiver of any breach of any other provision herein or consent to any subsequent breach of the same or any other provision. If any action by any party shall require the consent or approval of another party, such consent or approval of such action on any occasion shall not be deemed a consent to or approval of such action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion.

[Signature page to follow.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF CLAYTON, MISSOURI

ST. LOUIS COUNTY PORT AUTHORITY

By: _____
City Manager

By: _____
Executive Director

Attest: _____
City Clerk

Attest: _____
General Counsel

EXHIBIT A

(Legal Description of the Premises)

Parcel 1 (18K320237 and 18K320260):

The North 10 feet of Lot 3, all of Lots 4 and 5, having a frontage of 36 feet on the East line of Central Avenue by a depth Eastwardly of 150 feet to an alley 20 feet wide, and South 20 feet of Lot 6, fronting 20 feet on the East line of Central Avenue by a depth Eastwardly of 150 feet to an alley, bounded North by the remainder of Lot 6, East by an alley South by Lot 5 and West by Central Avenue, all in Block 10 in the Town of Clayton, according to the plat thereof recorded in Plat Book 1 Page 11 (now 7), in the County of St. Louis, Missouri.

Parcel 2 (18K320183 and 18K320259):

All of Lot 17, the West 10 feet of the South 120 feet of Lot 16 and the North 70 feet of the West 40 feet of Lot 16 in Block 10 of the Town (now City) of Clayton, according to the plat thereof recorded in Plat Book 1 Page 7 of the St. Louis County (now City) Records.

Parcel 3 (18K320150):

The South 120 feet of Lot 15 and the South 120 feet of the East 40 feet of Lot 16 in Block 10 of the Town (now City) of Clayton, according to the plat thereof recorded in Plat Book 1 Page 7 of the St. Louis County Recorder's Office, together fronting 90 feet on the North line of Carondelet Avenue, by a depth Northwardly of 120 feet, bounded East by Bemiston Avenue.

Parcel 4 (18K320921):

Lot 1 and the South 7 feet of Lot 2 in Block 10 of Town (now City) of Clayton, as per plat thereof recorded in Plat Book 1 Page 11 (now 7) of the St. Louis County Records.

and

The Northern 29 feet of Lot 2 and the Southern 26 feet of Lot 3 in Block 10 of Town of Clayton, according to plat thereof recorded in Plat Book 1 Page 7 of the St. Louis County Records, having a frontage of 55 feet by record and 54.94 feet by survey, with a width in the rear of 55 feet by record and 54.95 feet by survey.

Charlie A. Dooley
County Executive

Saint Louis
COUNTY
COUNTY COUNSELOR

Patricia Redington
County Counselor

May 10, 2005

RECEIVED

MAY 12 2005

CITY OF CLAYTON
DEPT. OF PUBLIC WORKS

Mr. Paul Wojciechowski
Director of Public Works, Clayton Missouri
10 North Bemiston
Clayton, MO 63105

Re: Central Ave. Surface parking lot

Dear Paul:

Enclosed is a fully executed original of our contract regarding the above parking lot.

Very truly yours,



Margaret Hart-Mahon
Assistant County Counselor

enclosure

EXHIBIT A

LEASE AGREEMENT

The Lease Agreement is entered into by and between the CITY OF CLAYTON, MISSOURI ("Clayton"), and ST. LOUIS COUNTY, MISSOURI ("County").

WHEREAS, the County desires Clayton to maintain a public parking lot on certain land owned by St. Louis County, and for Clayton share the revenue produced by such lot with the County; and

WHEREAS, this Lease Agreement is authorized pursuant to County Ordinance No.

22,296 and Clayton Ordinance No. 5874;

NOW THEREFORE, it is agreed by and between the parties as follows:

1. Leased Premises. County hereby leases to Clayton the County's real property located at the Northeast corner of Carondelet and Central Avenues in the City of Clayton, Missouri, which is highlighted on the plat map attached hereto as Exhibit A, such property as of this date being used as a public parking lot, and shall hereinafter be referred to as the "Premises."

2. Use and Maintenance of the Premises. Clayton agrees to use the Premises as a public parking lot ("Lot") and to maintain approximately 150 parking spaces. Clayton agrees to be responsible for the daily operation of the Lot and maintenance of the Lot and Premises by providing and paying for all routine operational services and capital improvements, including but not limited to sweeping, litter and snow removal, routine and preventive maintenance of the pavement, sewers, and pavement markings, signage, gates, parking meters, lighting system, utility expenses, landscaping of the Lot and Premises.

3. Major Pavement and Rehabilitation and/or Maintenance. St. Louis County and the City of Clayton shall share in costs necessary to rehabilitate pavement in the parking lot, including storm sewer repairs, other improvements associated with the parking facility or connection to the public systems.

4. Parking Charges/Collection/Accounting. Charges for parking whether by meter, permit or otherwise and the method of collection of such charges shall be within Clayton's sole discretion. Clayton shall collect and account to County for all revenues from parking charges. County shall have the right to inspect, subject to advance notice and during regular business hours, all accounting records pertaining to revenue from the operation of the Lot.

5. Parking Charge Revenue. County and Clayton shall share equally in the gross revenue generated by the parking charges. Payments shall be made from Clayton to County on a quarterly basis.

6. Parking Regulations and Enforcement. Clayton may enact any necessary parking regulations and shall, in its discretion, enforce the regulations and other applicable traffic laws and any parking time limits. Any revenue generated by the enforcement of traffic laws and parking time limits shall not be treated as parking charge revenue subject to sharing with County, but will remain with Clayton.

7. Term. The original term of this Lease Agreement shall be January 1, 2005 through December 31, 2005, thereafter, the Lease Agreement shall automatically renew each year for one year terms, provided, however, that either party may terminate this Lease Agreement upon ninety (90) days prior written notice to the other party. In addition, the foregoing notwithstanding, this Lease Agreement shall automatically terminate on the date that the Premises, or any part thereof, is transferred to a third party. Notice shall be given as follows:

TO COUNTY:
Director of Highways and Traffic
St. Louis County
121 S. Meramec
Clayton, MO 63105

TO CLAYTON:
City Manager
City of Clayton
10 N. Bemiston Ave.
Clayton, MO 63105
City of Clayton

IN WITNESS WHEREOF, the parties have executed this Lease Agreement this 28th day of April 2005.

CITY OF CLAYTON, MISSOURI

By: W. L. A. Devoed
City Manager

Attest: Shenise M. Moore
Title: City Clerk

ST. LOUIS COUNTY, MISSOURI

By: Charlie C. Devoed
County Executive

Attest: James C. Hark
Administrative Director

Approved: Sammy Ward
Director, Department of
Highways and Traffic

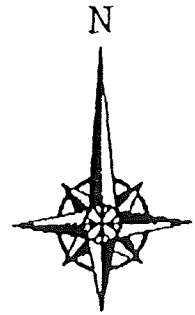
Approved as to legal form:

Pat Reddy
County Counselor

Approved: Glenn M. Paul
Accounting Officer

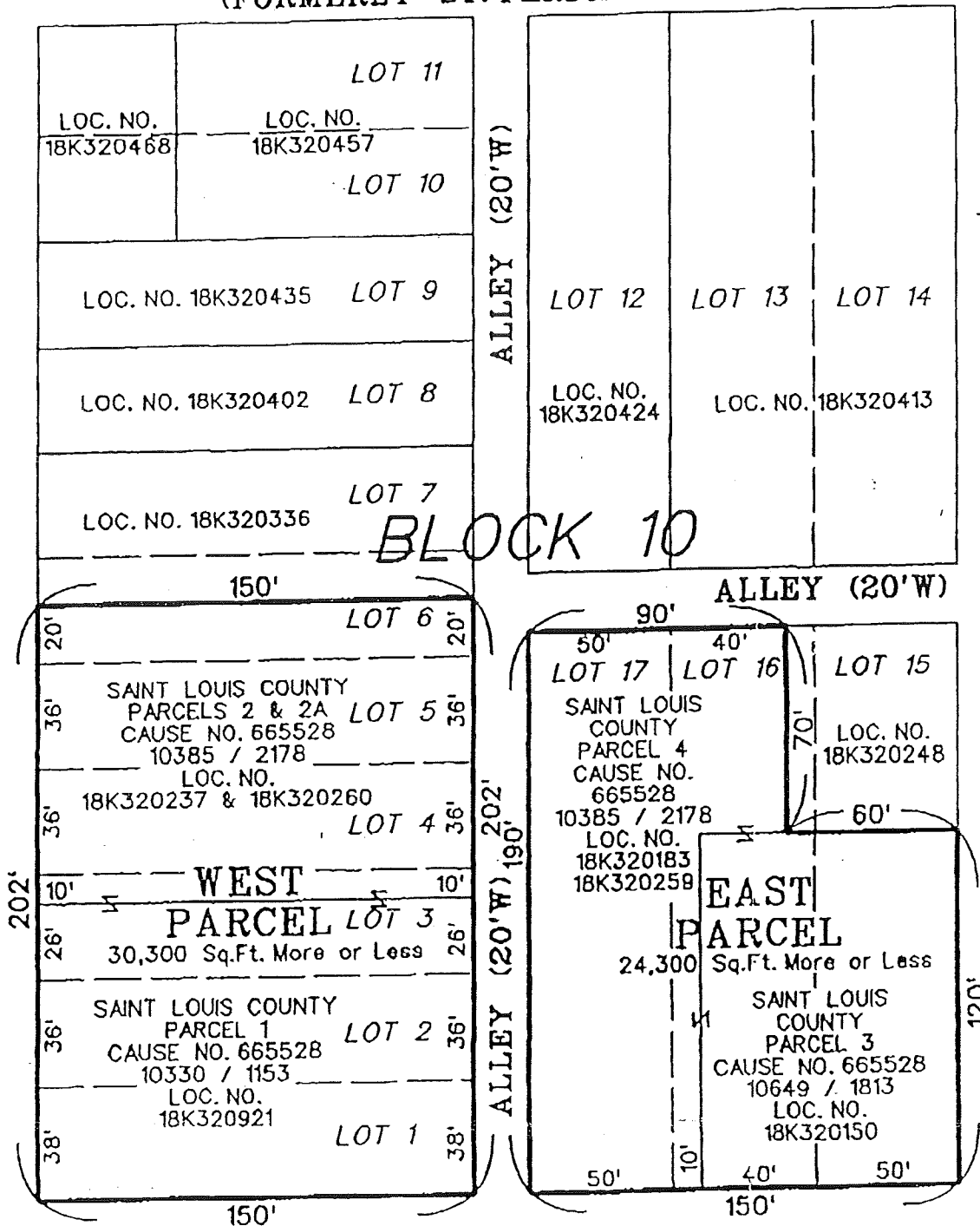
**FORSYTHE (80'W) AVE
(FORMERLY ST. FERDINAND AVE)**

0 30 60
SCALE: 1"=60 Feet



**BEMISTON (80'W) AVE
(FORMERLY ST. LOUIS AVE)**

CENTRAL (80'W) AVE



CARONDELET (80'W) AVE

NOTE: This exhibit is based on available records
without benefit of a field survey.

EXHIBIT "A"

INITIAL:

CLAYTON SURFACE PARKING EXHIBIT DRAWING
IN BLOCK 10 TOWN (NOW CITY) OF CLAYTON (PB 1, PGS 6 & 7)
U.S. SURVEY 1918, TOWNSHIP 45 NORTH, RANGE 6 EAST
CITY OF CLAYTON, SAINT LOUIS COUNTY, MISSOURI

DATE: 11/08/2004

DEC-28-2004 15:47

314 615 8194

99%

TOTAL P.06

P.06

39

EXHIBIT A

CLAYTON SURFACE PARKING - WEST PARCEL

A tract of land being all of Parcel 1 described in a Report of Commissioners under Cause No. 665528 as recorded in Deed Book 10330 Page 1153, and all of Parcels 2 and 2A described in a separate Report of Commissioners under Cause No. 665528 as recorded in Deed Book 10385 Page 2178; and consisting of all of Lots 1 thru 5 inclusive and the South 20 feet of Lot 6 in Block 10 of the Town (now City) of Clayton according to the plat recorded at Plat Book 1 Pages 6 and 7; and being situated in U.S. Survey 1918, Township 45 North, Range 6 East, City of Clayton, Saint Louis County, Missouri, and being more particularly described as:

Beginning at the point of intersection of the North line of Carondelet Avenue, 80 feet wide, with the East line of Central Avenue, 80 feet wide; thence Northerly along said East line of Central Avenue, 80 feet wide, a distance of 202 feet; thence leaving said East line Central Avenue Easterly along the North line of the aforesaid South 20 feet of Lot 6 in Block 10 a distance of 150 feet to a point in the West line of an alley, 20 feet wide; thence Southerly along said West line of alley, 20 feet wide, a distance of 202 feet to a point in the aforesaid North line of Carondelet Avenue, 80 feet wide; thence Westerly along said North line of Carondelet Avenue, 80 feet wide, a distance of 150 feet to the point of beginning; all based on available records without benefit of a field survey, and containing 30,300 square feet more or less.

CLAYTON SURFACE PARKING - EAST PARCEL

A tract of land being all of Parcel 3 described in a Report of Commissioners under Cause No. 665528 as recorded in Deed Book 10649 Page 1813, and all of Parcel 4 described in a separate Report of Commissioners under Cause No. 665528 as recorded in Deed Book 10385 Page 2178, and consisting of all of Lot 17, the South 120 feet of Lots 15 and 16, and the West 40 feet of the North 70 feet of Lot 16 in Block 10 of the Town (now City) of Clayton according to the plat recorded at Plat Book 1 Pages 6 and 7; and being situated in U.S. Survey 1918, Township 45 North, Range 6 East, City of Clayton, Saint Louis County, Missouri, and being more particularly described as:

Beginning at the point of intersection of the North line of Carondelet Avenue, 80 feet wide, with the West line of Bemiston Avenue (formerly known as St. Louis Avenue), 80 feet wide; thence Westerly along said North line of Carondelet Avenue, 80 feet wide, a distance of 150 feet to a point in the East line of an alley, 20 feet wide; thence Northerly along said East line of alley, 20 feet wide, a distance of 190 feet to a point in the South line of an alley, 20 feet wide; thence Easterly along said South line of alley, 20 feet wide, a distance of 90 feet; thence leaving said South line of alley Southerly along the East line of the aforesaid West 40 feet of Lot 16 in Block 10 a distance of 70 feet; thence Easterly along the North line of the aforesaid South 120 feet of Lots 15 and 16 in Block 10 a distance of 60 feet to a point in the aforesaid West line of Bemiston Avenue (formerly known as St. Louis Avenue), 80 feet wide; thence Southerly along said West line of Bemiston Avenue, 80 feet wide, a distance of 120 feet to the point of beginning; all based on available records without benefit of a field survey, and containing 24,300 square feet more or less.



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR SANGER; BOARD OF ALDERMEN
FROM: CRAIG S. OWENS, CITY MANAGER (CSO)
DATE: MARCH 14, 2017
SUBJECT: RESOLUTION SUPPORTING EARTH HOUR 2017 ON MARCH 25TH

The World Wildlife Fund is asking individuals, businesses, governments and organizations around the world to turn off their lights for one hour on Saturday, March 25, 2017, at 8:30 p.m. local time – **Earth Hour** – to make a global statement of concern about climate change and to demonstrate commitment to finding solutions. The Mayor and Board of Alderman previously voted to join several U.S. cities for action with their light switch by committing to go dark for a similar one-hour period in prior years.

As a leader of “green” initiatives, it is recommended that the City of Clayton continue to be an active participant in and supporter of Earth Hour. This will add our voice to help focus global attention on the need to find solutions to climate change and demonstrate the power to make a difference in the future of the planet. Approval of the resolution will encourage residents and businesses to go dark during this one-hour period where practical, keeping in mind safety considerations.

Additional information about this initiative can be found on the website at www.earthhourus.org

Recommendation: To approve the resolution.

Resolution No. 17-02

A RESOLUTION IN SUPPORT OF EARTH HOUR 2017 TO FOCUS GLOBAL ATTENTION ON CLIMATE CHANGE AND THE NEED TO FIND SOLUTIONS

WHEREAS, the City of Clayton recognizes that the climate is changing rapidly, with adverse effects on current and future generations, wildlife and the environment around us; and

WHEREAS, climate control is a critical issue for the future protection of the environment; and

WHEREAS, on March 25 numerous other metropolitan areas throughout the country will unite with millions of citizens, businesses and government officials from all corners of the world in a call for global action on climate change through participation in Earth Hour 2017.

NOW, THEREFORE, BE IT RESOLVED that the City of Clayton through its Mayor and Board of Aldermen does hereby support Earth Hour 2017 on Saturday, March 25, 2017, at 8:30 p.m., and urges all residents and businesses, where safe and practical, to participate in going dark for this hour as a call for global action.

Passed by the Board of Aldermen this 14th day of March 2017.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

TO: MAYOR SANGER; BOARD OF ALDERMEN
FROM: CRAIG S. OWENS, CITY MANAGER (CSO)
JANET K. WATSON, DIRECTOR OF FINANCE AND ADMINISTRATION
DATE: MARCH 14, 2017
SUBJECT: FY 2017 FIRST QUARTER FINANCIAL REPORT

Attached you will find the 1st Quarter Financial Report for FY17. This report includes the 1st quarter budget amendment passed by the Board at the last meeting. This report no longer includes the pension funds since they are no longer considered budgeted funds. We believe this makes this report more comparable as it is less likely to have wide variances based on market returns.

We would like to provide some highlights of the General Fund first quarter results below.

- We started this year with a surplus of \$284,702 and the 1st quarter budget amendment increased that surplus to \$357,595.
- General Fund sales tax is 3% lower than at this time last year. It is early in the fiscal year to establish a trend pattern but we will monitor this revenue to analyze continuing trends and will report this information to you, as well as any necessary budget adjustments.
- We receive the largest property tax distributions over the first two quarters of the fiscal year so it is early for full-year predictions. Through December, receipts were 15% higher than at this time in the prior year although significant distributions will still be received during the 2nd quarter and this may affect this trend. You will recall that when we established the 2016 property tax rates, we chose to recoup some funds lost in the prior year and this is apparent in the receipts this year. We will also monitor this revenue very closely.
- Building permit revenue is expectedly high due to increasing economic development and the budget has already accounted for that growth. The permit receipts will occur throughout the year as each development moves forward through certain processes.
- Utility revenue, parking and court fines are slightly lower than in the prior year. The 2nd quarter began the new parking app and enhanced parking rates and fine schedule so future trends in parking revenue will develop.

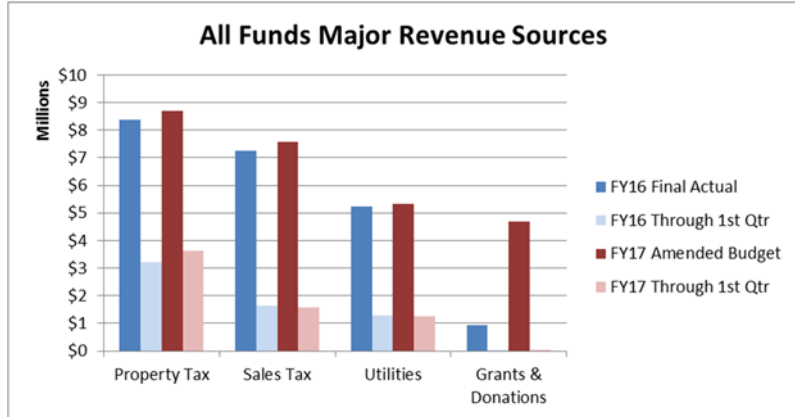
As always, we appreciate any questions or comments on the report.

CITY OF CLAYTON

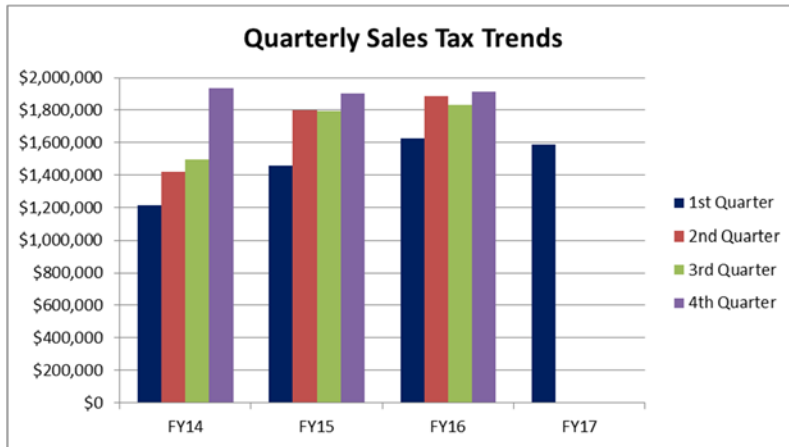
All Funds Report in Brief

FY 2017 Through 1st Quarter

Property tax revenue is collected in the General Fund, Special Business District Fund, 2009 Special Obligation Debt Service Fund, and 2014 General Obligation Debt Service Fund. The majority of this revenue source is collected in the first half of each fiscal year. FY 2017 year-to-date (YTD) collections are 13% higher than this time last year, although significant revenue will also be received in the 2nd

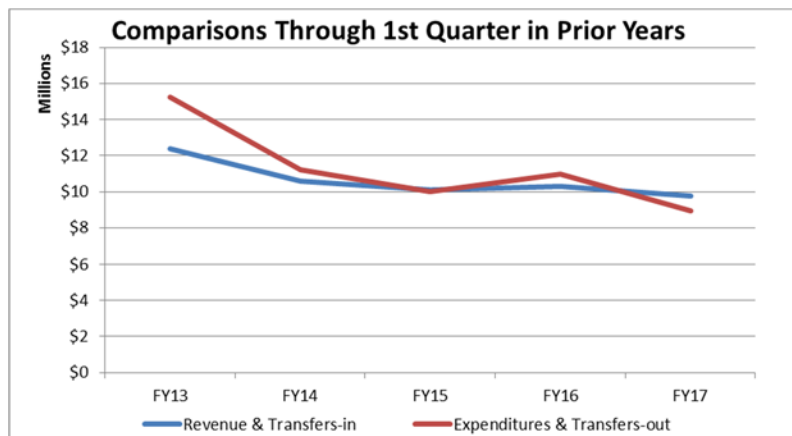


quarter which will help determine trends. Sales tax revenue, collected in both the General and Capital Improvement Funds, and utility tax revenue in the General Fund are both collected throughout the year. FY 2017 sales tax revenue in all funds was 2% lower than this time last year, although it is early in the year to predict this level of trend. Grant revenue and other donations are typically collected near the end of each fiscal year as projects are completed throughout construction season. This revenue source is typically only recorded in the General and Capital Improvement Funds and is budgeted significantly higher than FY 2016 final amounts.



See above for the status of sales tax revenue for the first three months of the fiscal year. This bar graph demonstrates sales tax growth patterns for the previous three fiscal years. Sales tax revenue in the first quarter of FY 2017 is lower than the amount received in the first quarter of FY 2016 although still higher than this period in the previous two fiscal years.

This line graph provides a comparison of current year revenue & transfers-in and expenditures & transfers-out through the first quarter of each of the last four fiscal years.

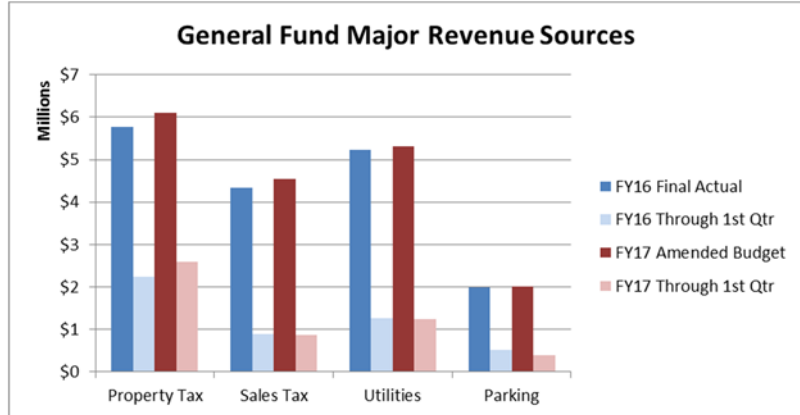


CITY OF CLAYTON

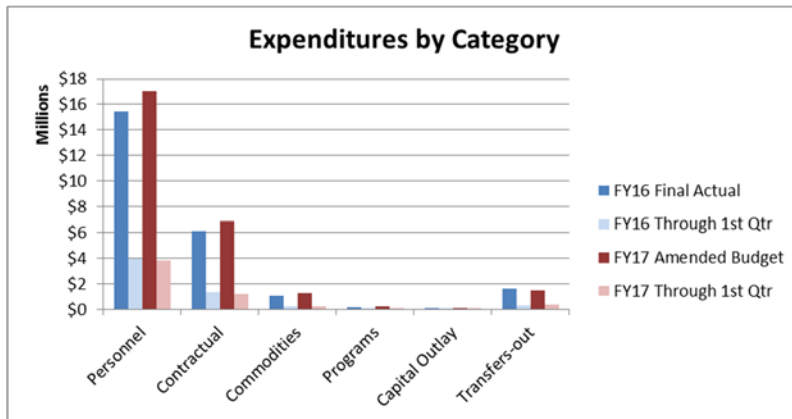
General Fund Report in Brief

FY 2017 Through 1st Quarter

The majority of property tax revenue is collected in the first half of each fiscal year. General Fund property tax revenue through the end of the first quarter was 15% higher than the same period last year, although significant receipts will still be received in the 2nd quarter and trend information will be more apparent at that time. Sales tax, utility tax, and parking revenue sources are collected



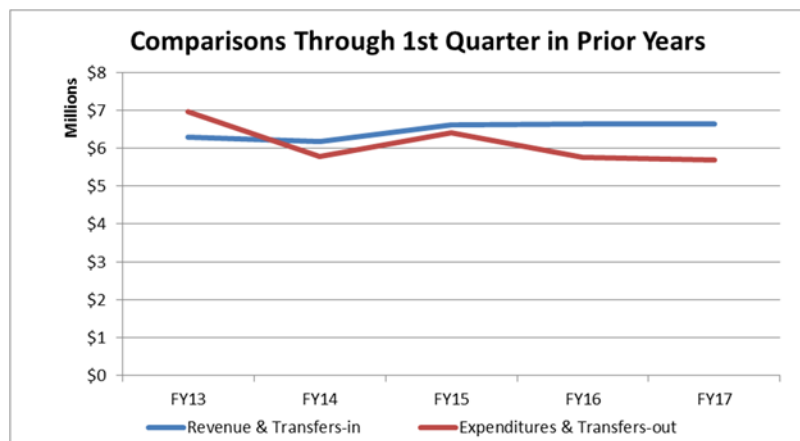
somewhat evenly throughout the fiscal year. Sales tax revenue includes the one cent general tax, the one-quarter cent local option tax, and the one-quarter cent tax to support Fire and EMS services in the City. Total General Fund sales tax revenue is 3% lower than through the first quarter of FY 2016, although it is early in the fiscal year to predict this level of trend. Utility tax revenue includes electric, gas, water, and telephone utilities. Parking revenue includes revenue from parking meters, permits, lots and structures.



This bar graph displays the comparison, by category, of the General Fund expenditures to last fiscal year. Personnel costs, consisting of salaries and benefits, comprise the largest category of expenditures and are spent somewhat evenly throughout the year, except for seasonal employee salaries. Year-to-date personnel expenditures are \$106,900, or 3%, lower than at this time last year but

are budgeted to be \$1.6 million, or 10%, higher than final FY 2016 amounts due to salaries and two added positions. FY 2017 General Fund expenditures are budgeted to be 10% higher than FY 2016 final amounts.

This line graph illustrates General Fund revenue & transfers-in and expenditures & transfers-out through the first quarter of the current year compared to the same period in each of the last four fiscal years. FY 2017 is the fourth year in which first quarter revenue & transfers-in exceed expenditures & transfers-out.



CITY OF CLAYTON

Analysis of Revenue & Expenditures through 1st Quarter

This financial report is for the first three months of Fiscal Year 2017 ending December 31, 2016. Significant highlights are summarized below.

Summary of All Funds

Revenue totaled \$8.7 million at the end of the first quarter of FY 2017 and was 2% more than at this time last year. The year-to-date revenue received is 23% of the current year amended budget which is comparable to the 24% of final revenue that had been received at this time in the prior year. Revenue for all funds is budgeted to be \$2.2 million more than final amounts in FY 2016 due to higher projected levels of building permit revenue related to large development projects, property taxes and parking revenue.

Expenditures totaled \$7.9 million at the end of the first quarter. Year-to-date expenditures were nearly \$1.4 million less than the amounts spent through the first quarter of the prior year. Year-to-date expenditures are 18% of the amended budget at the end of the first quarter, as compared to 26% for the same period of the final amounts spent last year. Expenditures for all funds are budgeted to be \$8.4 million higher than the final amounts spent last year due to increased personnel costs resulting from two added positions (one of which is reimbursed) and larger capital spending for park projects.

<i>All Funds Summary</i>	<i>FY16 Final Actual</i>	<i>FY16 Actual Through 1st Quarter</i>	<i>FY17 Amended Budget</i>	<i>FY17 Actual Through 1st Quarter</i>
<i>Revenue</i>	\$35,368,619	\$8,532,814	\$37,597,736	8,705,445
<i>Transfers-in</i>	9,931,043	1,738,523	9,811,708	1,056,010
<i>Revenue & Transfers-in</i>	45,299,663	10,271,337	47,409,444	9,761,455
<i>Expenditures</i>	36,034,299	9,255,465	44,434,811	7,897,737
<i>Transfers-out</i>	9,931,043	1,738,523	9,811,708	1,056,010
<i>Expenditures & Transfers-out</i>	45,965,342	10,993,988	54,246,519	8,953,747
<i>Surplus (Deficit)</i>	(665,679)	(722,651)	(6,837,075)	807,708

General Fund

The FY 2017 amended budget predicts a surplus of \$357,595. This is higher than the prior year's budgeted surplus but lower than the FY 2016 final actual surplus of \$597,626.

General Fund Revenue: Revenue totaling \$6.3 million has been received which is 24% of the amended budget and \$51,051 less than revenue received at the end of the first quarter of the prior year. The source of revenue experiencing the largest increase as compared to the first quarter in the prior year is property tax revenue, with a 15% increase due to recouping lost revenue in the prior year. A large part of property tax revenue will also be received in the 2nd quarter and accurate trends will be more apparent.

General Fund Expenditures: Expenditures totaling \$5.3 million were 21% of the budget and 3% less than the first three months of the prior year. The first quarter does not include the fire agreement settlement pay which will occur in March.

<i>General Fund Summary</i>	<i>FY16 Final Actual</i>	<i>FY16 Actual Through 1st Quarter</i>	<i>FY17 Amended Budget</i>	<i>FY17 Actual Through 1st Quarter</i>
<i>Revenue</i>	\$23,496,508	\$6,316,965	\$25,925,971	\$6,265,914
<i>Transfers-in</i>	1,622,126	311,273	1,458,637	364,658
<i>Revenue & Transfers-in</i>	25,118,634	6,628,237	27,384,608	6,630,572
<i>Expenditures</i>	22,916,264	5,494,472	25,519,945	5,310,862
<i>Transfers-out</i>	1,604,743	269,354	1,507,068	381,508
<i>Expenditures & Transfers-out</i>	24,521,007	5,763,826	27,027,013	5,692,370
<i>Surplus (Deficit)</i>	597,626	864,411	357,595	938,202

Special Revenue Funds

In the Sewer Lateral Fund, 66% of the current year budgeted revenue has been received and 11% of budgeted expenditures spent by the end of the first quarter. In the Special Business District (SBD) Fund, 33% of budgeted revenue has been received and 25% of budgeted transfers-out have occurred by the end of the 1st quarter. The transfers-out in the SBD partially support the General Fund expenditures in the Economic Development and Events programs. The largest revenue source in the SBD is property tax, and a significant amount of property tax will still be received in the 2nd quarter of the year.

Special Revenue Funds	FY16 Final Actual	FY16 Actual Through 1st Quarter	FY17 Amended Budget	FY17 Actual Through 1st Quarter
Sewer Lateral Revenue	\$94,861	\$58,721	\$92,060	\$61,133
SBD Revenue	438,135	104,151	424,952	138,082
Total Revenue	532,997	162,872	517,012	199,215
Sewer Lateral Expenditures	100,061	11,750	105,000	11,150
SBD Transfers-out	474,194	118,549	424,952	106,238
	574,255	130,299	529,952	117,388
Surplus (Deficit)	(41,258)	32,574	(12,940)	81,827

Equipment Replacement Fund

Expenditures through the first quarter totaled \$367,280 and were 18% of the amended budget, as only a portion of the replacement vehicles, equipment and projects have been received or completed. Revenue totaled \$59,738, or 34% of the budget. This fund has a budgeted deficit in FY 2017 of \$510,775 due to the purchase of several large vehicles and pieces of equipment.

Equipment Replacement Fund	FY16 Final Actual	FY16 Actual Through 1st Quarter	FY17 Amended Budget	FY17 Actual Through 1st Quarter
Revenue	\$1,819,063	\$18,217	\$177,648	\$59,738
Transfers-in	1,345,342	225,628	1,351,149	337,782
Revenue & Transfers-in	3,164,405	243,845	1,528,797	397,520
Expenditures	1,575,625	180,030	2,039,572	367,280
Surplus (Deficit)	1,588,780	63,815	(510,775)	30,240

Capital Improvement Fund

Revenue through the first quarter totaled \$1.1 million and was \$8,368 more than the first three months of the prior year. Most revenue sources were slightly lower than in the first quarter of FY 2016, but this is offset by a 9% increase in Road & Bridge Tax revenue. Year-to-date expenditures totaled \$716,380. These totals represent 6% of budgeted expenditures and 13% of budgeted revenue. The majority of project expenditures and related grant revenue occur later in the fiscal year due to the timing of the construction season.

Capital Improvement Fund	FY16 Final Actual	FY16 Actual Through 1st Quarter	FY17 Amended Budget	FY17 Actual Through 1st Quarter
Revenue	\$6,998,502	\$1,135,929	\$8,552,684	\$1,144,297
Transfers-in	4,541,954	667,141	4,599,726	353,570
Revenue & Transfers-in	11,540,456	1,803,070	13,152,410	1,497,867
Expenditures	6,608,794	1,763,895	11,989,175	716,380
Transfers-out	3,209,467	727,205	3,323,688	258,420
Expenditures & Transfers-out	9,818,261	2,491,100	15,312,863	974,800
Surplus (Deficit)	1,722,195	(688,030)	(2,160,453)	523,067

Debt Service Funds

Revenue in all debt service funds through the first quarter totaled \$1 million and consisted of real and personal property taxes, federal bond interest rebates and interest income. Debt service expenditures totaled nearly \$1.5 million. These totals are 43% of budgeted revenue and 31% of budgeted expenditures. Outstanding principal balances have been reduced by nearly \$1.1 million to date in this fiscal year.

<i>Debt Service Funds</i>	<i>FY16 Final Actual</i>	<i>FY16 Actual Through 1st Quarter</i>	<i>FY17 Amended Budget</i>	<i>FY17 Actual Through 1st Quarter</i>
<i>Revenue</i>	\$2,521,550	\$898,831	\$2,424,421	\$1,036,281
<i>Transfers-in</i>	2,421,621	534,481	2,402,196	0
<i>Revenue & Transfers-in</i>	4,943,171	1,433,312	4,826,617	1,036,281
<i>Expenditures</i>	4,833,555	1,805,318	4,781,119	1,492,065
<i>Transfers-out</i>	4,642,639	623,415	4,556,000	309,844
<i>Expenditures & Transfers-out</i>	9,476,194	2,428,733	9,337,119	1,801,909
<i>Surplus (Deficit)</i>	(4,533,023)	(995,421)	(4,510,502)	(765,628)

City of Clayton
FY 2017
Quarterly Financial Report
For the Three Months Ending December 31, 2016

All Funds:

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
Revenue								
General Fund	23,519,358	23,496,508	6,316,965	25,720,113	25,925,971	6,265,914	24.2%	(51,051)
Sewer Lateral Fund	91,150	94,861	58,721	92,060	92,060	61,133	66.4%	2,412
Special Business District Fund*	440,194	438,135	104,151	424,952	424,952	138,082	32.5%	33,931
Equipment Replacement Fund	1,832,807	1,819,063	18,217	167,648	177,648	59,738	33.6%	41,521
Capital Improvement Fund	7,378,182	6,998,502	1,135,929	7,852,684	8,552,684	1,144,297	13.4%	8,368
Debt Service Funds	2,425,951	2,521,550	898,831	2,424,421	2,424,421	1,036,281	42.7%	137,450
Total Revenue	35,687,642	35,368,619	8,532,814	36,681,878	37,597,736	8,705,445	23.2%	172,631
Transfers-in	9,938,101	9,931,043	1,738,523	9,660,708	9,811,708	1,056,010	10.8%	(682,513)
Total Revenue & Transfers-in	45,625,743	45,299,663	10,271,337	46,342,586	47,409,444	9,761,455	20.6%	(509,882)
Expenditures								
General Fund	23,454,869	22,916,264	5,494,472	25,386,980	25,519,945	5,310,862	20.8%	(183,610)
Sewer Lateral Fund	120,000	100,061	11,750	105,000	105,000	11,150	10.6%	(600)
Equipment Replacement Fund	1,809,158	1,575,625	180,030	1,934,792	2,039,572	367,280	18.0%	187,250
Capital Improvement Fund	6,671,803	6,608,794	1,763,895	10,447,475	11,989,175	716,380	6.0%	(1,047,515)
Debt Service Funds	4,849,768	4,833,555	1,805,318	4,781,119	4,781,119	1,492,065	31.2%	(313,253)
Total Expenditures	36,905,598	36,034,299	9,255,465	42,655,366	44,434,811	7,897,737	17.8%	(1,357,728)
Transfers-out	9,938,101	9,931,043	1,738,523	9,660,708	9,811,708	1,056,010	10.8%	(682,513)
Total Expenditures & Transfers-out	46,843,699	45,965,342	10,993,988	52,316,074	54,246,519	8,953,747	16.5%	(2,040,241)
Surplus (Deficit)	(1,217,956)	(665,679)	(722,651)	(5,973,488)	(6,837,075)	807,708		

*Expenditures related to Economic Development and Events are recorded in the General Fund. Revenue is still recorded in the Special Business District Fund, with transfers out to the General Fund supporting these expenditures.

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General Fund:

The General Fund accounts for all revenue and expenditures associated with the traditional services provided by the Clayton City government.

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
Revenue & Transfers-in								
Revenue								
Property Taxes	5,777,100	5,778,041	2,249,231	6,110,040	6,110,040	2,587,119	42.3%	337,888
Licenses, Permits & Fees	1,901,160	1,909,513	589,895	3,184,590	3,184,590	462,627	14.5%	(127,268)
Sales Tax	4,357,500	4,330,748	895,925	4,540,519	4,540,519	872,711	19.2%	(23,214)
Utilities	5,237,800	5,235,919	1,274,958	5,323,831	5,323,831	1,239,830	23.3%	(35,128)
Intergovernmental	1,003,602	1,042,456	193,461	1,085,200	1,245,868	188,661	15.1%	(4,800)
Shaw Park Aquatics	410,802	342,924	6,696	424,065	424,065	10,462	2.5%	3,766
Shaw Park Ice Rink	133,660	126,809	48,318	139,791	139,791	54,951	39.3%	6,633
Shaw Park Tennis	64,890	42,337	5,805	66,038	66,038	1,278	1.9%	(4,527)
Parks Miscellaneous	198,890	198,475	31,563	187,050	187,050	33,607	18.0%	2,044
Sports Programs	347,120	332,097	14,423	338,450	338,450	14,809	4.4%	386
Fines & Forfeitures	1,168,740	1,168,061	295,422	1,328,410	1,373,600	245,640	17.9%	(49,782)
Parking	1,945,950	1,997,499	517,505	2,009,555	2,009,555	394,418	19.6%	(123,087)
Miscellaneous	972,144	991,627	193,765	982,574	982,574	159,801	16.3%	(33,964)
Total Revenue	23,519,358	23,496,508	6,316,965	25,720,113	25,925,971	6,265,914	24.2%	(51,051)
Transfers-in	1,630,543	1,622,126	311,273	1,458,637	1,458,637	364,658	25.0%	53,386
Total Revenue & Transfers-in	25,149,901	25,118,634	6,628,237	27,178,750	27,384,608	6,630,572	24.2%	2,335
Expenditures & Transfers-out								
Expenditures								
Personnel Services	15,673,345	15,465,403	3,964,883	17,001,500	17,067,522	3,857,983	22.6%	(106,900)
Contractual Services	6,569,272	6,138,069	1,306,324	6,839,329	6,899,955	1,222,344	17.7%	(83,980)
Commodities	947,882	1,070,784	203,257	1,246,387	1,252,704	203,754	16.3%	497
Programs	167,978	154,270	17,348	241,264	241,264	23,781	9.9%	6,433
Capital Outlay	96,392	87,739	2,660	58,500	58,500	3,000	5.1%	340
Total Expenditures	23,454,869	22,916,264	5,494,472	25,386,980	25,519,945	5,310,862	20.8%	(183,610)
Transfers-out	1,613,160	1,604,743	269,354	1,507,068	1,507,068	381,508	25.3%	112,154
Total Expenditures & Transfers-out	25,068,029	24,521,007	5,763,826	26,894,048	27,027,013	5,692,370	21.1%	(71,456)
Surplus (Deficit)	81,872	597,626	864,411	284,702	357,595	938,202		

General Fund Expenditures by Department

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
Expenditures & Transfers-out								
Expenditures								
Mayor, Board of Aldermen, City Clerk	89,430	81,361	13,118	87,830	87,830	11,943	13.6%	(1,175)
City Manager	586,234	575,431	125,348	612,232	615,169	102,019	16.6%	(23,329)
Economic Development	643,789	596,728	112,761	614,091	611,815	80,248	13.1%	(32,513)
Finance & Administration	2,106,575	2,004,988	516,679	2,383,700	2,547,531	411,290	16.1%	(105,389)
Planning & Development	926,390	921,846	214,879	1,071,412	1,063,955	215,511	20.3%	632
Police	6,042,506	5,970,116	1,511,163	6,610,194	6,614,943	1,564,735	23.7%	53,572
Fire	4,299,442	4,298,292	1,077,418	4,653,243	4,652,632	1,025,509	22.0%	(51,909)
Public Works	6,059,755	5,867,968	1,211,275	6,488,867	6,470,236	1,237,965	19.1%	26,690
Parks & Recreation	2,218,117	2,176,433	453,419	2,390,884	2,381,307	410,870	17.3%	(42,549)
Insurance	482,631	423,102	258,413	474,527	474,527	250,772	52.8%	(7,641)
Total Expenditures	23,454,869	22,916,264	5,494,472	25,386,980	25,519,945	5,310,862	20.8%	(183,610)
Transfers-out	1,613,160	1,604,743	269,354	1,507,068	1,507,068	381,508	25.3%	112,154
Total Expenditures & Transfers-out	25,068,029	24,521,007	5,763,826	26,894,048	27,027,013	5,692,370	21.1%	(71,456)

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Sewer Lateral Fund:

The Sewer Lateral Fund provides funding to residents for all or a portion of the cost of certain repairs of defective sewer lateral lines on all residential property having six or fewer dwelling units.

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
Revenue & Transfers-in								
Revenue								
Sewer Lateral Fees	90,600	94,107	58,295	91,500	91,500	60,973	66.6%	2,678
Interest Income	550	755	426	560	560	160	28.6%	(266)
Total Revenue	91,150	94,861	58,721	92,060	92,060	61,133	66.4%	2,412
Transfers-in	-	-	-	-	-	-	-	-
Total Revenue & Transfers-in	91,150	94,861	58,721	92,060	92,060	61,133	66.4%	2,412
Expenditures & Transfers-out								
Expenditures								
Sewer Lateral Expenditures	120,000	100,061	11,750	105,000	105,000	11,150	10.6%	(600)
Total Expenditures	120,000	100,061	11,750	105,000	105,000	11,150	10.6%	(600)
Transfers-out	-	-	-	-	-	-	-	-
Total Expenditures & Transfers-out	120,000	100,061	11,750	105,000	105,000	11,150	10.6%	(600)
Surplus (Deficit)	(28,850)	(5,200)	46,971	(12,940)	(12,940)	49,983		

Special Business District Fund:

The Special Business District Fund provides funding for appropriate economic development activities in the Downtown area. Funding may be expended for a variety of economic development purposes including capital improvements in the area, promotion of the Downtown area through marketing and advertising, and efforts related to attraction and/or retention of businesses. Beginning in FY 2015 expenditures related to Economic Development and Events are recorded in the General Fund. Revenue continues to be recorded in the Special Business District Fund, with transfers out to the General Fund supporting these projects.

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
Revenue & Transfers-in								
Revenue								
Property Tax	415,424	412,691	103,521	399,239	399,239	137,813	34.5%	34,292
Investment Income	770	952	630	975	975	269	27.6%	(361)
Miscellaneous	24,000	24,493	-	24,738	24,738	-	0.0%	-
Total Revenue	440,194	438,135	104,151	424,952	424,952	138,082	32.5%	33,931
Transfers-in	-	-	-	-	-	-	-	-
Total Revenue & Transfers-in	440,194	438,135	104,151	424,952	424,952	138,082	32.5%	33,931
Transfers-out	474,194	474,194	118,549	424,952	424,952	106,238	25.0%	(12,311)
Surplus (Deficit)	(34,000)	(36,059)	(14,398)	-	-	31,844		

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Equipment Replacement Fund

The Equipment Replacement Fund establishes a "sinking" or reserve account for the systematic replacement of all capital vehicles and large equipment. An assessment is made on each vehicle and piece of equipment as to its useful life, remaining useful life and net replacement cost. The net replacement cost for each item is divided by its useful life, resulting in an annual amount to be budgeted and transferred to this fund to pay for the replacement of the item.

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
<u>Revenue & Transfers-in</u>								
Revenue								
Gain/Loss on Sale of Assets	1,815,307	1,796,125	11,700	129,842	139,842	56,700	40.5%	45,000
Interest Income	17,500	21,738	5,317	37,806	37,806	3,038	8.0%	(2,279)
Miscellaneous	-	1,200	1,200	-	-	-	-	(1,200)
Total Revenue	1,832,807	1,819,063	18,217	167,648	177,648	59,738	33.6%	41,521
Transfers-in	1,353,759	1,345,342	225,628	1,351,149	1,351,149	337,782	25.0%	112,154
Total Revenue & Transfers-in	3,186,566	3,164,405	243,845	1,518,797	1,528,797	397,520	26.0%	153,675
<u>Expenditures & Transfers-out</u>								
Expenditures								
Technology Projects	252,470	128,592	41,630	447,897	482,017	31,834	6.6%	(9,796)
Vehicles and Equipment	1,445,253	1,344,015	112,646	1,383,877	1,454,537	309,692	21.3%	197,046
Debt Payment - Ladder Truck Loan	111,435	103,018	25,754	103,018	103,018	25,754	25.0%	-
Total Expenditures	1,809,158	1,575,625	180,030	1,934,792	2,039,572	367,280	18.0%	187,250
Transfers-out	-	-	-	-	-	-	-	-
Total Expenditures & Transfers-out	1,809,158	1,575,625	180,030	1,934,792	2,039,572	367,280	18.0%	187,250
Surplus (Deficit)	1,377,408	1,588,780	63,815	(415,995)	(510,775)	30,240		

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Capital Improvement Fund

The Capital Improvement Fund earmarks funds for specific capital improvement and infrastructure needs.

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
Revenue & Transfers-in								
Revenue								
Capital Improvement Sales Tax	1,466,028	1,344,658	334,977	1,390,108	1,390,108	328,934	23.7%	(6,043)
Stormwater & Parks Sales Tax	1,766,022	1,581,950	394,090	1,635,418	1,635,418	386,981	23.7%	(7,109)
Road & Bridge Tax	923,781	886,065	363,444	848,400	848,400	396,134	46.7%	32,690
Grants & Donations	891,766	863,688	27,473	3,934,896	4,634,896	21,397	0.5%	(6,076)
Interest Income/Other	67,200	52,326	9,147	36,260	36,260	5,659	15.6%	(3,488)
Contributions/Special Assessments	2,255,783	2,255,783	6,799	7,602	7,602	5,192	68.3%	(1,607)
Total Revenue	7,378,182	6,998,502	1,135,929	7,852,684	8,552,684	1,144,297	13.4%	8,368
Transfers-in	4,534,530	4,541,954	667,141	4,448,726	4,599,726	353,570	7.7%	(313,571)
Total Revenue & Transfers-in	11,912,712	11,540,456	1,803,070	12,301,410	13,152,410	1,497,867	11.4%	(305,203)
Expenditures	6,671,803	6,608,794	1,763,895	10,447,475	11,989,175	716,380	6.0%	(1,047,515)
Transfers-out	3,217,884	3,209,467	727,205	3,323,688	3,323,688	258,420	7.8%	(468,785)
Total Expenditures & Transfers-out	9,889,687	9,818,261	2,491,100	13,771,163	15,312,863	974,800	6.4%	(1,516,300)
Surplus (Deficit)	2,023,025	1,722,195	(688,030)	(1,469,753)	(2,160,453)	523,067		

FY 2015 Budgeted Capital Expenditures

	Amended Budget	FY 2016 Actual	Original Budget	FY 2017 Amended Budget	FY 2017 Expended YTD	% of CY Budget Received / Expended
Projects						
Street Resurfacing - General	137,438	70,274	61,000	-	-	-
Street Resurfacing - Bond Funded	3,615,273	3,615,982	4,405,000	4,556,000	146,947	3.2%
Traffic Signal/Signage Improvements	79,200	79,207	285,714	490,014	7,534	1.5%
Alley Improvements - Bond-Funded	554,772	563,123	-	-	235	100.0%
Curb & Sidewalks	101,000	96,043	77,500	77,500	-	0.0%
Facility Improvements	122,000	117,494	540,000	1,193,800	7,547	0.6%
Shaw Park Ice Rink	49,000	48,054	500,000	500,000	9,240	1.8%
Shaw Park Aquatic Center	-	-	-	75,000	-	0.0%
Shaw Park Projects	376,600	376,646	3,906,022	4,406,022	421,970	9.6%
Oak Knoll Park Projects	435,000	435,707	270,000	270,000	2,168	0.8%
Hanley House Maintenance	690,975	690,971	-	9,300	9,226	99.2%
DeMun Park	-	-	300,000	300,000	-	0.0%
Taylor Park	409,700	409,705	-	9,300	9,274	99.7%
Total Expenditures*	6,570,958	6,503,205	10,345,236	11,886,936	614,141	5.2%

*This list of capital expenditures only includes projects underway in FY 2017. It does not include projects that were completed in FY 2016.

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Debt Service Funds

	[-----FY 2016-----]			[-----FY 2017-----]				
	Amended Budget	Final Actual	Actual Thru December	Original Budget	Amended Budget	Actual Thru December	% of CY Budget Received / Expended	\$ Over (Under) 1st Quarter Prior Year
<u>Revenue & Transfers-in</u>								
Revenue								
2005 B Bond Issue	150	158	78	-	-	-	-	(78)
2009 A/B Bond Issue	1,263,926	1,260,118	424,379	1,242,231	1,242,231	555,497	44.7%	131,118
2011 Bond Issue	-	291	136	-	-	-	100.0%	(136)
2014 General Obligation Bonds	1,150,550	1,240,674	474,228	1,172,581	1,172,581	480,654	41.0%	6,426
2014 Special Obligation Refunding Bonds	11,325	20,310	10	9,609	9,609	130	1.4%	120
Total Revenue	2,425,951	2,521,550	898,831	2,424,421	2,424,421	1,036,281	42.7%	137,450
Transfers-in								
From General Fund								
For 2014 S.O. Refunding Bonds	215,675	215,675	-	112,193	112,193	-	0.0%	-
From Capital Improvement Fund								
For 2011 Issue	658,035	658,035	534,481	654,913	654,913	-	0.0%	(534,481)
For 2014 S.O. Refunding Bonds	1,403,500	1,403,500	-	1,635,090	1,635,090	-	0.0%	-
From 2005B Issue								
For 2014 S.O. Refunding Bonds	142,059	144,411	-	-	-	-	-	-
Total Transfers-in	2,419,269	2,421,621	534,481	2,402,196	2,402,196	-	0.0%	(534,481)
Total Revenue & Transfers-in	4,845,220	4,943,171	1,433,312	4,826,617	4,826,617	1,036,281	21.5%	(397,031)
<u>Expenditures & Transfers-out</u>								
Expenditures								
2005 B Bond Issue	325,639	322,683	322,683	-	-	-	-	(322,683)
2009 A/B Bond Issue	1,237,078	1,234,926	945,344	1,227,768	1,227,768	948,734	77.3%	3,390
2011 Bond Issue	657,813	650,104	534,481	654,913	654,913	543,331	83.0%	8,850
2014 General Obligation Bonds	997,738	995,056	-	997,138	997,138	-	0.0%	-
2014 Special Obligation Refunding Bonds	1,631,500	1,630,787	2,810	1,901,300	1,901,300	-	0.0%	(2,810)
Total Expenditures	4,849,768	4,833,555	1,805,318	4,781,119	4,781,119	1,492,065	31.2%	(313,253)
Transfers-out								
2005B Issue for Fund Closure	142,059	144,411	-	-	-	-	-	-
2011 Issue for Capital Projects	500,000	507,450	-	-	-	-	-	-
2014 G.O. Issue for Capital Projects	3,990,804	3,990,778	623,415	4,405,000	4,556,000	309,844	6.8%	(313,571)
Total Transfers-out	4,632,863	4,642,639	623,415	4,405,000	4,556,000	309,844	6.8%	(313,571)
Total Expenditures & Transfers-out	9,482,631	9,476,194	2,428,733	9,186,119	9,337,119	1,801,909	19.3%	(626,824)
Surplus (Deficit)	(4,637,411)	(4,533,023)	(995,421)	(4,359,502)	(4,510,502)	(765,628)		